



STUDENT DISABILITY DISCLOSURE POLICY

1. Introduction

Under the Disability Discrimination Act Part 4, the University has a duty to take every reasonable step to find out if students have a disability (whether it is called a disability or dyslexia or mental health difficulty or long-term medical condition).

The University has a duty of care to all students. The Disability Service is responsible for the co-ordination of support to students with disabilities.

2. Definition of Disability

2.1 The Disability Discrimination Act (DDA) defines a disabled person as someone who has a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

2.2 For the purposes of the Act:

- ‘substantial’ means neither minor nor trivial
- ‘long term’ means that the effect of the impairment has lasted or is likely to last for at least 12 months (there are special rules covering recurring or fluctuating conditions)
- ‘normal day-to-day activities’ include everyday things like eating, washing, walking and going shopping
- a ‘normal day-to-day activity’ must affect one of the ‘capacities’ listed in the Act which includes mobility, manual dexterity, speech, hearing, seeing and memory

3. Scope of the Policy

This Disclosure Policy has been developed in accordance with UK legislation and applies to all students studying in the UK. Where possible and practicable, the policy will also be applied to Heriot-Watt University students in other countries.

4. Student Declaration of Disability

4.1 It is essential to make it as straightforward and comfortable as possible for students to disclose information which will enable all staff to support them well.

4.2 For some students, declaring a disability is straightforward. Perhaps their disability is obvious, or they are familiar with the support systems involved, having previously received support in education. For other students declaring a disability may feel much more risky, perhaps because their disability is hidden (impaired hearing) or carries a social stigma (mental health difficulty), or because it is new for the student concerned.

- 4.3 Students **do not** have an obligation to tell the University about their disability. The purpose of a student telling the University about their disability is so that suitable support can be arranged. However, the University also has an “*anticipatory duty*” to have systems in place which will accommodate the needs of students with disabilities, thus negating the need for ad hoc arrangements.

5. Finding out about students’ disabilities

- 5.1 Heriot-Watt University has formal processes to encourage students to disclose their disabilities and support needs – via application, registration and accommodation forms, for example. These ensure that the student is referred to the Disability Service.
- 5.2 It is also important to create a positive atmosphere; one which encourages students (especially in the first weeks of term 1) to inform staff about disability-related issues which affect their learning. For example, at the first student/mentor meeting it would be useful for staff to ask students to let them know about any disabilities which they have not already declared.
- 5.3 For courses involving work placements, field trips, or practical work in laboratories, it is also important to give students opportunities to declare any disability that has not so far been disclosed. This is particularly important if it is likely to have implications for their participation in the course, or for health and safety, or for the University’s duty of care to others.

6. Ensuring staff have information about individual disabled students’ support needs

- 6.1 Where a student has declared a disability to the University, information is recorded in the student database (ISS) by staff in the Disability Service and is available under the Wider Access/Disability heading. This provides information about a student’s academic support needs and examination requirements. The same information is provided on the intranet version of the student database where all staff who have registered to use the intranet service can search for a particular student or download a list of disabled students studying a specific module.

7. Ensuring disabled students are treated fairly and consistently once they have disclosed a disability

- 7.1 It is important to ensure fair treatment of students and this can be achieved by the co-ordinated provision of central advice and support from the Disability Service to both students and Schools/Sections. The Service will make sure that, where necessary, students obtain formal evidence of a disability and provide this to the University (for example, an up-to-date educational psychologist’s report on dyslexia, or doctor’s note). Following a needs assessment, academic and administrative staff will be able to view the student’s support arrangements on the student database.

8. Data protection

- 8.1 On asking for information about a student’s disability, it is important not to infringe other legal requirements.
- 8.2 The Data Protection Act 1998 is concerned with 'personal data' which is recorded. The Act identifies 'sensitive personal data' as a sub-set of 'personal data' and gives a list of the types of information that are in this category. Information as to the physical or

mental health or condition of a person is 'sensitive personal data' and therefore any information relating to a student's disability is regarded as sensitive personal data. The University is required by the Data Protection Act to take additional precautions when dealing with 'sensitive personal data' because of the nature of the information.

- 8.3 In particular, care must be taken to inform students fully about what will be done with information about their disability. For example, information will be held on ISS and made available only to registered users, in order to provide support. It may also be used for statistical purposes including the University's annual statutory returns.
- 8.4 Students are asked to give their written consent to disability related information being released. (see Appendix A) Should a student refuse to sign the form, the staff member should make a written note of the discussion and send it to the Disability Service.

9. Confidentiality

9.1 A student is not obliged to declare a disability. If they do, they have the right for this information to remain confidential to them under the DDA Part 4.. This means that by keeping the information confidential to them, they accept that they may receive less support than other students because staff will not know about their disability or support needs. For example, a deaf student may receive brief seminar notes from a member of staff rather than having a communication support worker visibly working with them in class to explain all aspects of a discussion. This is a less effective solution educationally, but allows the student to keep information about their deafness confidential.

- 9.2 It is acknowledged that, in the past, academic mentors would not normally pass on information which was given in confidence. However, in respect of disability-related information, mentors can no longer undertake to guarantee such **strict** confidentiality.

10. What to do if a Student Discloses a Disability to an Individual Member of Staff or Accommodation Warden.

- 10.1 One of the most important aspects of the DDA Part 4 is the responsibility it gives to individual staff members when a student tells them about a disability or impairment. **If this happens, the whole institution is "deemed to know" about the disability and is therefore responsible for providing reasonable support. Consequently, it is crucial that all University staff know about this duty and take appropriate action when they are given such information.**
- 10.2 An exception to this is when a student discloses a disability or impairment during a counselling session with the Student Counsellor. The whole institution cannot be "deemed to know" in these circumstances because the information is bound by the rules of confidentiality which apply to professional counselling practice and which prevent such information being passed on to a third party.
- 10.3 If a student offers information about a disability, dyslexia or a long-term medical condition, members of staff need to check with the student whether the Disability Service already knows of their disability. If not, the staff member should ask the student whether the information on their disability may be passed on or is given in confidence.
- 10.4 If permission to disclose the information is granted:

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- Refer the student to the Disability Service and pass on any relevant information.
- Ask the student to complete Appendix A and forward to the Disability Service

10.5 If the information is given in confidence, it is nevertheless important to point out that **strict confidentiality cannot be guaranteed and must be declined** because the DDA does not override the Data Protection Act or Health and Safety legislation. If there is a genuine overriding health and safety risk, or there are issues about duty of care to the student or other students or staff, then it may be appropriate to pass on information. This should only be done in cases of emergency or where disclosure is required in order to prevent injury or damage to the health/wellbeing of any individual. Wherever possible, information should only be released following consultation with the Disability Adviser, the Director of Student Welfare Services or the Director of Student Services.

10.6 If permission to disclose the information is NOT granted:

- Ask the student to complete Appendix A and retain a copy.

Explain to the student that if confidentiality is observed:

- Their circumstances will be discussed anonymously with the Disability Service and Head of School/Service to establish the appropriate course of action.
AND
- The University may not be able to make all types of reasonable adjustments that it could otherwise make if the information was allowed to be disclosed more fully.
AND
- The implications relating to Health and Safety, the University's duty of care for others and Professional Body requirements need to be considered
AND
- Reasonable adjustments can still be made without the nature of their disability being disclosed because of our "anticipatory duty" under the DDA Part 4.

A written note of discussions with the student should be made and retained on the student's file. If possible, the student should be asked to sign a copy of the written note.

11. Responsibilities of staff

11.1 All staff must ensure that:

- provision is made for informal and private opportunities for students to declare a disability, especially at the commencement of studies
- paperwork for work placements or field trips, or for health and safety in laboratories, includes the opportunity for students to declare a disability
- ad hoc arrangements are only made for disabled students on the advice of the Disability Service which is responsible for the co-ordination of support
- students are informed clearly about what will happen to any disability-related information they disclose

- requests for strict confidentiality are declined but information is passed on only on a need-to-know basis and used for the limited purpose for which it is given i.e. to provide appropriate support.

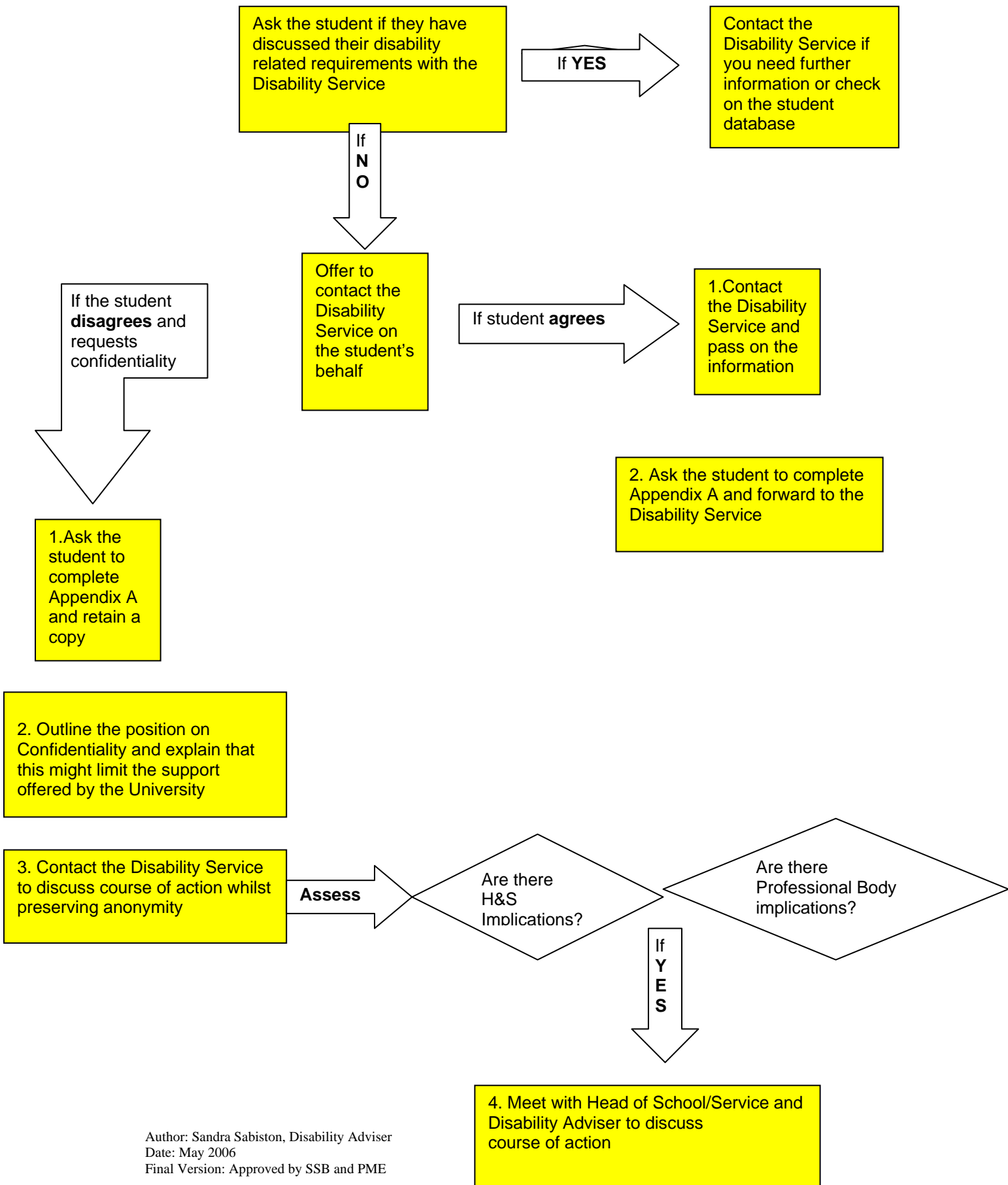
11.2 Heads of Schools and Sections must ensure that:

- there is a named person in their department responsible for liaising with the Disability Service and other colleagues on disability related matters
- all staff understand their duty to pass on disability-related information to the Disability Service
- confidentiality is maintained, where possible, as described in the process above

Any queries on the operation of this policy should be addressed to Sandra Sabiston, Disability Adviser, 0131 451 3509; s.sabiston@hw.ac.uk

This Policy will be widely disseminated to all staff and students annually

What to do if a student discloses a disability



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APPENDIX A

For completion by all students who declare a Disability

DISABILITY SERVICE – STUDENT WELFARE

DISABILITY/SPECIAL NEEDS

Statement of Confidentiality & Disclosure

You have declared to the University that you have a disability/special need. Your consent is now requested to handle this information in accordance with your wishes.

Information pertaining to students with disabilities and special needs is kept in secure files with restricted access. It is also held on ISS and is accessible only to those staff who have registered access to the data. It may also be used and anonymised for statistical purposes.

Within Heriot-Watt University, disability-related information is shared for your benefit and to allow support strategies to be put in place.

I, _____ hereby give/do not give my consent for information relating to my disability/special need to be shared with Heriot Watt University academic, administrative and support staff.

Signed _____

Date _____

Forward to the Disability Service – Student Welfare Services

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