

Developing Competence Standards

The Special Educational Needs and Disability (Northern Ireland) Order 2005 (Amendment) (Further and Higher Education) (Northern Ireland) Regulations 2006

This booklet is also available on the University's website at: <http://www.ulster.ac.uk/secretary/policyimplementation/equality/guidance.html>

It can also be made available on request, in alternative formats including Braille, computer disc, audiocassette, and in minority languages to meet the needs of those who are not fluent in English.

Introduction

The SENDO Amendment Regulations (Special Educational Needs and Disability (NI) Order 2005 (Amendment) (Further and Higher Education) (NI) Regulations (2006) came into force on 1 September 2006, and prohibit the University from discriminating against or harassing disabled students with regard to admissions to the University and the application for, and conferment of vocational qualifications. Under these regulations the University must also develop competence standards for entry to all of its courses.

General information about the SENDO Amendment Regulations can be found in the University's 'Revised SENDO Staff Guidance Booklet'. The purpose of this booklet is to provide information about:

- competence standards;
- the concept of objective justification;
- the implications of the new duties for the University of Ulster; and
- aligning the development of competence standards with existing University practice.

This booklet has been produced in consultation with the University's SENDO Implementation Group. In the absence of any regional guidance, it draws from guidance provided by the Disability Rights Commission¹.

Admission to a course of study

Since 1 September 2005, all post-16 education providers have been prohibited from discriminating against disabled students:

- in the arrangements they make for determining admissions or enrolments to the institution;
- in the terms on which they offer to admit or enrol a person; and
- by refusing or deliberately omitting to accept an application for admission or enrolment.

¹ The Disability Rights Commission (DRC) was an independent body established in April 2000 by Act of Parliament to stop discrimination and promote equality of opportunity for disabled people in Great Britain. It has now been amalgamated into the new Equality and Human Rights Commission.

This applies to all courses of study, however long or short the study period is, and includes people doing single modules, evening courses and distance learning.

Competence standards are intended to replace existing 'entry requirements' for a course, but for many courses the change will not be great (or there will be no change). They are intended to promote inclusivity, and enable, rather than restrict entry to, or unlawfully discriminate against, disabled students/applicants. As such, they should be applied to **all applicants** for a course.

Competence Standards

The Regulations define 'a competence standard' as an academic, medical, or other standard applied on or on behalf of an education provider for the purpose of determining whether or not a person has a particular level of competence or ability.

Competence standards apply to all aspects of courses: in admissions (entry criteria), on-course assessments (exams) and awarding qualifications. However, this guidance booklet focuses specifically on competence standards in admissions.

Examples of competence standards identified by the Disability Rights Commission (DRC) are as follows:

An applicant for a degree in music, which involves a substantial element of performance, is required to demonstrate a certain level of **ability** in playing an instrument. This would be a competence standard.

The admission criteria for a course in choreography include a requirement to demonstrate 'a high level of **physical fitness**'. The course itself, however, is predominately theory-based and does not involve any strenuous physical activity. This is unlikely to be a competence standard.

The requirement for students studying for a law degree to demonstrate a particular **standard of knowledge** of certain areas of law in order to obtain the degree is a competence standard.

Therefore the following are **likely** to be considered to be competence standards:

- qualifications or evidence of subject mastery, literacy or numeracy (academic competence standards);
- a required level of fitness (a medical competence standard); and
- practical skill/ ability/ knowledge based criteria, or Health & Safety (other competence standards, as their purpose is to demonstrate a particular level of competency).

The following would **not** be considered to be competence standards:

- being able to cope with the demands of a course;
- having good health and/or fitness (if this is unnecessary for the course);
- attendance requirements; and
- ability to speak or write clearly.

Competence standards and entry tests

The purpose of an entry test is to determine a student's competence, skill or knowledge in a particular area, compared to a standard benchmark. With regard to entry tests, the following are **unlikely** to amount to competence standards in most cases:

- a requirement that a student must physically attend a test at a particular location;
- a requirement that a student sitting a written test must 'write neatly'; and
- a requirement that a person completes a test in a certain time period is not a competence standard unless the competence being tested is the ability to do something within a limited time period.

In certain circumstances, the ability to take a test **may** be considered a competence standard. This applies where entry is necessarily conditional upon having a practical skill or ability which must be demonstrated by completing a practical test. For example, a requirement that a portfolio of art-work is presented during the application process, in order to determine entry into some Art and Design courses.

Competence standards and reasonable adjustments

As competence standards are non-discriminatory by design, there is no duty to make reasonable adjustments in respect of the application of a competence standard. This means that the University is not required to alter a competence standard for any individual. However, it may need to consider making a reasonable adjustment to the process by which a competence standard is assessed, without compromising the competence standards themselves. For example, if an entry test is applied in admissions, reasonable adjustments might include allowing a blind student:

- extra time;
- the use of specialist equipment, alternative formats or support; and/or
- to take the test in a separate room to avoid disruption during the test.

Objective justification

The application of a competence standard may, depending on the circumstances, result in disability-related discrimination of a disabled person. This treatment is justified if, but only if:

- the competence standard is (or would be) applied equally to people who do not have this particular disability; and
- its application is a proportionate means of achieving a legitimate aim.

This means that in order for the **application of a competence standard** to be proportionate, it must correspond with (i.e. be causally related to) a real need (i.e. 'a legitimate aim') of the University. In the context of our programmes of study, these aims are summarised as the learning outcomes (i.e. those attributes that a student must demonstrate to qualify for the learning to be certificated). The importance and benefits of the legitimate aim should significantly outweigh the discriminatory effect, and there should be no reasonable alternative to the action being taken (i.e. there should be no other way to achieve the learning outcome that would have a less detrimental impact on the rights of disabled people). As such, the University will need to provide documented evidence that it has considered alternative competence standards (i.e. all discussions/deliberations regarding alternative competence standards should be recorded as supporting evidence, to justify or substantiate different treatment). For example:

A college requires all prospective students to have a GCSE in Mathematics as a basic entrance requirement, even for arts/humanities subjects. A blind applicant does not have this qualification but can show that this is because of a reason related to his disability.

To justify the requirement the college has to show that it is a proportionate means of achieving a legitimate aim. This competence standard may be easier to justify as a requirement for entry to scientific and mathematical courses than for arts/ humanities courses.

Source: Equality Commission for Northern Ireland

In brief, competence standards must be applied **equally to all applicants** and there must be supporting evidence to demonstrate that the standard is **genuinely necessary** for the eventual achievement of one or more of the programme learning outcomes (i.e. it must be objectively justified) and that all reasonable alternative competence standards have been investigated.

Any competence standard which results in direct disability discrimination is not a genuine competence standard.

‘Other’ competence standards

Competence standards (or ‘entry requirements’) which have been imposed by other stakeholder organisations, for example, professional qualifications bodies, must also be objectively justifiable.

Professional qualifications bodies also have a duty not to discriminate against disabled people under SENDO and Part II of the Disability Discrimination Act 1995 (DDA). Therefore, they are required to review the competence standards for all of their qualifications to ensure that **the manner in which they are measured** (rather than the competence standard itself) does not exclude disabled people from being able to meet them (i.e. bearing in mind what reasonable adjustments could be made to the process without affecting the competency being measured).

Consequently, it is important for University staff to liaise with the relevant professional qualifications body to ensure that their competence standards have been reviewed in light of the SENDO Amendment Regulations.

Translating legislation into practice

The DRC recommends the following actions to review and evaluate all competence standards applied at entry:

- identify the specific purpose of each competence standard which is applied, and examine the manner in which the standard achieves that purpose;
- consider the impact which each competence standard may have on disabled people and, in the case of a standard which may have an adverse impact, ask whether the application of the standard is absolutely necessary;
- review the purpose and effect of each competence standard in the light of changing circumstances – such as developments in technology;
- examine whether the purpose for which any competence standard is applied could be achieved in a way which does not have an adverse impact on disabled people; and
- document the manner in which these issues have been addressed, the conclusions which have been arrived at and the reasons for these conclusions.

In reviewing and evaluating competence standards, the following should be considered:

- inappropriate or unnecessary entry requirements can lead to discrimination;
- blanket policies (i.e. those which do not take account of individual circumstances) with regard to disability (e.g. excluding all students with a visual impairment from entry to a course) can lead to discrimination;
- stating that a certain personal, medical or health-related characteristic is necessary or preferable can lead to discrimination if the characteristic is not necessary for the course;
- avoid admissions criteria which create barriers to progression/transfer to another course for disabled students;
- appropriate additional or alternative entry requirements (i.e. where the necessary level of competence, knowledge or ability can be shown/ evidenced without compromising academic standards) may need to be identified;
- consider the anticipatory reasonable adjustments duty when designing a course;
- the University has a duty to ensure that it has clearly identified, with qualifications bodies, which entry requirements are genuine competence

standards and which are not and therefore subject to the reasonable adjustments duty; and

- a continuous review mechanism is required.

Aligning the development of competence standards with existing University practice

In recognition of the current higher education environment in Northern Ireland, the University Council has endorsed the following approach to developing competence standards:

- Review minimum entry requirements in terms of **non-academic admission requirements** immediately (i.e. **the University does not require you to review the academic entry requirements/ admissions criteria for any programme**);
- Prioritise the development of competence standards in the following order:
 - 1) Health-related courses (including placement);
 - 2) Laboratory/studio-based courses;
 - 3) Library-based courses;
- Embed e-learning matters;
- Work collaboratively to develop guidance for academic staff in relation to the review of learning outcomes and assessment; and
- Align with existing processes such as the revalidation programme and relevant documentation.

In order to facilitate this approach, and in accordance with the University's SENDO Action Plan, Equality and Diversity Services, in conjunction with the SENDO Implementation Group and the Academic Office has:

- carried out an interim review of the 'Programme Specification' and 'Template for Module Description' documents used in revalidation, resulting in minor amendments being made to the existing documentation;
- developed a comprehensive audit tool (Appendix 1) to assist in the translation of 'entry requirements' to competence standards (at evaluation/revalidation), based on the DRC guidance; and
- developed a guidance booklet and a PowerPoint presentation to inform academic staff.

The following process is anticipated at course evaluation/revalidation:

- relevant academic staff will be referred to the 'Developing Competence Standards' staff guidance document and 'Competence Standards Audit Tool', available at: <http://www.equality.ulster.ac.uk/staff-guidance.html>;
- additional guidance and support will be provided by Equality and Diversity Services, if required;
- course teams will be encouraged to use the 'Competence Standards Audit tool' to review and objectively justify each entry requirement/admissions criterion for a course in terms of the SENDO Amendment Regulations. This will involve:
 - reviewing the intended learning outcomes for a course (the 'particular aims' of the course) to ensure that these are genuinely necessary and fundamental to the qualification to be obtained (as considered in the revalidation process);
 - linking genuine entry requirements/admissions criteria to specific intended learning outcomes of a programme (to show that they are a proportionate way of achieving that aim); and
 - evidencing the development of competence standards;
- the completed audit tool will be retained by the Course Director, as evidence;
- following endorsement by the Dean/Associate Dean, competence standards will be implemented for relevant courses; and
- from time to time Equality and Diversity Services will review the completed audit tools to determine the effective implementation of Competence Standards at the University.

It is anticipated that competence standards are promulgated within the University over a 5-year period (2007-2012, coinciding with the existing revalidation programme). Competence standards will then be reviewed continuously and updated by course teams.

Staff responsibilities

All academic staff involved in course evaluation and/or revalidation have a responsibility to:

- participate in the development of competence standards for their course;

- attend/complete equality/disability awareness training so that they fully understand:
 - the University's policy on the non-discriminatory (equitable) provision of services;
 - that it is unlawful to discriminate against someone because of their disability; and
 - the implications to the University of discriminating against a person because of their disability;
- ensure that they do not unlawfully discriminate against or harass another person because they are disabled; and
- treat complaints of discrimination seriously and deal with them effectively.

Further advice

If you would like further advice about developing competence standards, or feel that you have been discriminated against because of a disability, please contact Sara Hunter (Head of Equality and Diversity Services) in the first instance (Extension: 68137; Email: sp.hunter@ulster.ac.uk).

Useful resources

The following resources have been used to develop this guidance booklet:

In the absence of any clear guidelines for competence standards within Northern Ireland, useful guidance can be found in the Disability Rights Commission's, '**Code of Practice Post 16 - Code of Practice (Revised) for providers of post 16 education and related services**':

http://www.equalityhumanrights.com/Documents/Disability/Education/Post16_Code.pdf

The Disability Rights Commission's '**Understanding the Disability Discrimination Act. A guide for colleges, universities and adult community learning providers in Great Britain**':

http://www.equalityhumanrights.com/Documents/Disability/Education/Understanding_the_DDA.pdf

The Equality Commission for Northern Ireland's **SENDO Amendment Regulations Guidance documents**:

<http://www.equalityni.org/archive/word/summarySENDOFHEamendsF0906.doc>

The Equality Commission for Northern Ireland's '**DDA Guidance for Qualifications Bodies**':

[http://www.equalityni.org/archive/pdf/QualifBodiesFS.pdf#search="qualifications%20bodies"](http://www.equalityni.org/archive/pdf/QualifBodiesFS.pdf#search=)

The University's **staff guidance booklets** and 'Competence Standards Audit Tool' are also available from:

<http://www.ulster.ac.uk/secretary/policyimplementation/equality/guidance.html>

Further information and advice about developing competence standards is available from the Academic Office and Disability Services.

Appendix 1

Developing Competence Standards Audit Tool

The SENDO Amendment Regulations (Special Educational Needs and Disability (NI) Order 2005 (Amendment) (Further and Higher Education) (NI) Regulations 2006) came into force on 1 September 2006, and prohibit the University from discriminating against or harassing disabled students with regard to admissions to the University and the application for and conferment of vocational qualifications. Under these regulations the University must develop competence standards for entry to all of its courses.

Competence standards are defined as:

- **academic (e.g. qualifications, evidence of subject mastery, literacy/ numeracy);**
- **medical (e.g. level of physical fitness); and**
- **other standards (e.g. practical skill/ ability/ knowledge based criteria, Health & Safety) applied by or on behalf of the University.**

Their purpose is to determine whether or not a person has a particular level of competence or ability, and **all applications** should be assessed using the competence standards developed and advertised for each programme.

Please note that the University does not require you to consider the academic requirements/admissions criteria (i.e. in terms of the qualifications required) for your programme in this audit/review.

There is no duty to make reasonable adjustments to competence standards. However, there is a duty to consider reasonable adjustments in the assessment of competence standards. Therefore it is important that each competence standard is **objectively justified** by reference to a particular intended learning outcome for the programme (i.e. to show that it has a specific legitimate purpose) at the outset. Similarly, supporting evidence must demonstrate that it (the standard) is **genuinely necessary** and **fundamental to the qualification** and that it indicates competency and proficiency at admission. This also means that a programme team must be able to show that each intended learning outcome is an essential pre-requisite for obtaining the qualification.

Where additional aptitude tests have been adopted by the University in order to assist selection to particular programmes, there must also be evidence to show that these tests have been reviewed in terms of SENDO, to ensure that they do not unlawfully discriminate against a disabled person, and that they can be objectively justified.

This audit tool is designed to facilitate the first stage of the development and implementation of robust competence standards for entry/admission to programmes at the University, and the University itself, in accordance with the Regulations.

Please note that this process:

- is intended to promote inclusivity and enable, rather than restrict entry to, or unlawfully discriminate against, disabled students;
- should not compromise academic standards; and
- needs to be evidenced so that the University may objectively justify all decisions that are made with regard to its entry requirements/ admissions criteria/ competence standards.

When you have completed this audit tool, you should have a good indication of how vulnerable your current programme entry requirements/admissions criteria are to potential litigation (i.e. how discriminatory they are in terms of disability), and which of your current programme entry requirements/ admissions criteria cannot be objectively justified (i.e. they are not genuine, appropriate or necessary for determining competence or ability, or 'a proportionate means of achieving a legitimate aim'). As such, this audit tool should help you to further develop and evidence objectively justifiable competence standards for each course.

For further information on competence standards, please refer to paragraphs 5.71-5.78, 6.24-6.31 and 9.17-9.30 of the Disability Rights Commission's '**Code of Practice Post 16 - Code of Practice (Revised) for providers of post 16 education and related services**'. This is located at:

http://www.equalityhumanrights.com/Documents/Disability/Education/Post16_Code.pdf

Course identification

1. Faculty: _____
2. Course: _____
3. Key stakeholders: (e.g. professional bodies, general qualifications bodies)

4. Date of last validation: _____
5. Scheduled date for revalidation: _____
6. Please indicate whether entry to this course is via the formal admissions process (Note: an example of an exception to this may be where students just turn up to attend a one-day course or taster day):

- 7a. Is admission to this course assessed using an admissions test (e.g. HPAT)?

- 7b. If 'yes', has this admissions test been reviewed in terms of SENDO?

- 7c. Is admission to this course assessed using criteria other than those attracting UCAS points?

If your answer to 7c is **yes**, please complete **all sections** of this audit tool, and attach it to your evaluation/revalidation document.

If your answer to 7c is **no**, please complete the '**Checklist**' on the last page of this audit tool and attach it to your evaluation/ revalidation document.

Current intended learning outcomes and entry requirements

The purpose of this question is to identify all intended learning outcomes for the course and examine how the existing entry requirements/ admissions criteria (other than UCAS points/qualifications) relate to them. Please note: if no relationship exists between an entry requirement and the intended learning outcomes, you should question whether the entry requirement is fundamental to the course, and whether you require additional/alternative entry requirements/ intended learning outcomes.

8. Please list the current essential intended learning outcomes for this course/programme/module and, where appropriate, list the current entry requirements/admissions criteria which will indicate an ability to achieve those intended learning outcomes.

Essential intended learning outcomes	Current entry requirement/admissions criteria (other than UCAS points/qualifications) which will indicate an ability to achieve the intended learning outcomes

Please go to Question 9.

Objective justification - developing competence standards

The purpose of this question is to help determine whether each criterion is genuine, appropriate and necessary for determining competence or ability, i.e. that it is a proportionate means of achieving a legitimate aim. This involves an assessment of the purpose of each admissions criterion, and the **manner in which the criterion achieves that purpose**.

9. Please indicate the **purpose** of each entrance requirement/ admissions criterion in the table below. Please indicate which of the requirements/criteria are imposed by other stakeholder organisations (e.g. professional qualifications bodies).

Current entry requirement/admissions criterion (other than UCAS points/ qualifications) which will indicate an ability to achieve the intended learning outcomes	What is the purpose of this criterion? For example, the purpose of the criterion might be to show a particular level of a relevant competence, knowledge or ability and/or be linked to the course objectives or an intended learning outcome, or enable progression/ transfer to another course.	How does this criterion achieve this purpose? For example, the passing of an assessment may be conditional upon having a particular skill or ability.

Note: Course Directors should give particular thought to whether an overly demanding entry requirement/admissions criterion is being set in relation to its purpose, and in relation to the type or level of exam or qualification being awarded.

Objective justification - developing competence standards

The purpose of this question is to help determine whether each criterion is genuine, appropriate and necessary for determining competence or ability, i.e. that it is a proportionate means of achieving a legitimate aim. This involves an assessment of the **actual and potential effect** of each admissions criterion on disabled people. According to the Regulations, **any criterion which is found to result in direct discrimination of disabled people can not be a genuine competence standard.**

10. Please indicate the **actual/potential effect** of each criterion on disabled people in the table below:

Current entry requirement/ admissions criterion (other than UCAS points/qualifications) which will indicate an ability to achieve the intended learning outcomes	What is the actual or potential effect of this criterion on disabled people? Note: In particular, describe any differential, less favourable or detrimental (adverse) effects on disabled people.	Where an adverse effect has been identified, how has this adverse effect been mitigated, or how could this adverse effect be mitigated?

Note: In particular, consider the use of all less discriminatory alternative or non-discriminatory criteria and changes in technology.

Intended learning outcomes and draft competence standards

Having completed Questions 9 and 10, you should now be able identify whether each existing admissions criterion/entry requirement is an 'objectively justifiable' competence standard. Please note that each competence standard must be genuine, appropriate and necessary for determining competence or ability (i.e. be directly related to the intended learning outcomes for the course).

11. Please list the intended learning outcomes for this course and, where appropriate, list the draft medical and 'other' competence standards which will indicate an ability to achieve the intended learning outcomes:

Intended learning outcomes	Draft medical (e.g. level of physical fitness) and 'other' (e.g. practical skill/ ability/knowledge based criteria, Health & Safety) competence standards which will indicate an ability to achieve the intended learning outcomes

Checklist

This checklist will provide you with an indication of the progress your Faculty/ School is making towards developing competence standards for this course.

The intended learning outcomes for this course have been reviewed in terms of accessibility (with particular regard to alternative assessment methods and placement)

☐

The entry requirements for this programme are directly related to (i.e. are essential to the eventual achievement of) the intended learning outcomes of the programme

☐

Entry requirements are applied equally to all students (including international students) who apply for this programme

☐

There are no inappropriate or unnecessary entry requirements e.g. ability to speak or write clearly

☐

There are no blanket policies (i.e. those which do not take account of individual circumstances) with regard to disability applied to these course criteria

☐

Admissions criteria have been reviewed to ensure that they do not create barriers to entry or barriers to progression/transfer to another programme for disabled students

☐

Appropriate additional or alternative entry requirements (i.e. where the necessary level of competence, knowledge or ability can be shown/ evidenced without compromising academic standards) have been identified for each essential criterion, to ensure universal accessibility

☐

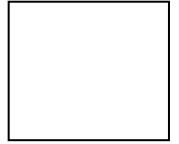
All admissions criteria/entry requirements/intended learning outcomes have been/are continually reviewed in light of SENDO

☐

Key stakeholders in this programme (e.g. qualifications/professional bodies) have amended their criteria in line with the SENDO Amendment Regulations

☐

Entry criteria will be reviewed in light of changing circumstances, such as changes to legislation or technology at next course revalidation exercise/ on an ongoing basis.



Preliminary review of programme criteria by: _____

Date: _____