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Inclusive Assessment

Diversity and Inclusion –
the Assessment Challenge

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Diversity and Inclusion – the Assessment Challenge

1 Introduction

In HE in the UK long-standing efforts, each with their own vocabularies and anxieties, have focused upon championing equal opportunities, challenging discrimination, widening participation and developing inclusive practice. Over time, and taken together as incremental improvements, these initiatives have clearly delivered a more diverse student population, even to some degree amongst the pre-1992 universities. Where once the focus was narrowly on issues of class, gender and race driving the discussion of student participation, and considerations of disability drove debates about access, the expectation of seeing the whole person, rather than the signifying labels, has changed the way that we look at the individual and added some further rounding out characteristics: questions of sexual orientation, religious belief and, not for the first time, age as critical factors in the framework of learning and teaching. Of course these categories can be nuanced and cross-tabulated through considering a student's knowledge base, their prior educational experience, their route of entry into HE, whether they are an overseas student or not, and how they everyday manage the life/work/study triad. In the past distinctions of these kinds have been grouped in terms of 'traditional' and 'non-traditional' students, but these concepts are increasingly losing their meaning.

Accepting and welcoming the diverse student population requires that staff take cognisance of the breadth of student cohorts and develop and deliver a representative curriculum, one that reflects the complex mix of individuals that make up a class in a programme. It is clear from research that when it comes to the learning experience, students really do value staff recognition of their individual academic achievements, their social and cultural identities and their particular learning requirements, and that these factors are, amongst others, critical in the development of 'deep' learning for students.¹ To this end it is also incumbent upon academic developers to adopt a more sophisticated understanding of how curricula could better reflect the richness of student diversity and individual identities. From this perspective it is necessary to make a distinction between students who are 'academically engaged' and those who are 'disengaged', indicating that whilst the latter may become alienated through a failure of staff recognition, the former can enjoy an approach to learning characterised by reflection, questioning, conjecture, evaluating and the making of connections between ideas.

Listed like this, of course, these positive attributes read like a catalogue of some of the key components of that desirable state of being to which students aspire and HEIs attempt to inculcate: 'graduateness.' But they also, equally, mirror the mechanisms of the **means** of evaluating graduateness; constituting, as they do, a list of some of the graduate skills required to meet the objectives of a well targeted assessment task. It is this synchronicity, between the acquisition of graduate skills and the modes of assessment that encourage them - viewed against a background of student diversity and equity - that interests us here. In a formal sense, it is our contention that the

pursuit of inclusivity can usefully be pursued through assessment practice grounded in programme based assessment where an holistic approach to the individual student can be mirrored in the methodology. In other words, inclusivity eschews a ‘one size fits all’ approach to module assessment,ⁱⁱ in favour of innovative ways of assessing that encourage students to draw together elements learnt from different sections of a programme to demonstrate a capacity to integrate and apply knowledge in a cumulative way. We are also mindful that any discussion of this kind must take into account the complex pressures playing out through the sector, to fit learning to employment and factor ‘employability’ skills into the learning outcomes of programmes and assessments. The HEI business model informs institutional practice and student outcomes.

We want to examine what is meant by the notion of inclusivity, tracing its genesis and looking at some of the legal, social, cultural, educational and economic factors that have driven, and will drive, this imperative forward. Our main focus is the desire to promote the pursuit of inclusive assessment practice but we cannot fail to draw attention to the ambiguity hiding within. It is our belief that the term ‘inclusive assessment’ has become taken for granted in terms of its meaning, although it is largely conceptual and lacking in clear practical definitions, it has nonetheless achieved the status of an idealised target. Conceptually the term is a flexible one that started life to encompass the participation of disabled students and acquired the casual elasticity to corral the full compliment of the widening participation agenda, without actually being transformed in either theory or practice. Therefore, at the centre of this analysis - which will consider in passing broad debates about assessment practice - is a core discussion about the critical influence of actions taken to meet the requirements of increasing numbers of disabled students entering the HE sector. This is crucial to any understanding of the inclusivity debate.

At the end of this brief overview we will address the use of the term inclusive assessment to try and establish some practicalities and our ultimate aim is to provide a detailed *aide memoire* for staff to support the process of making an equity evaluation of assessment, briefly examining the different stages of the processes implicated in designing and delivering inclusive assessments.

2 Debates about assessment practice

One thing is clear, when discussing assessment, the way that students are assessed profoundly affects their learning.ⁱⁱⁱ However, the question of how best to assess students’ learning in HE is a conundrum with a long history and a critical research tradition stretching back at least 40 years. It has been hotly debated.^{iv} The broad framework for debate has often been concerned with the polarities of marker reliability, versus the validity of assessment tasks to assess what they purport to be assessing.^v The pressure to establish reliable measurements of achievement, to define efficient methods to award marks and to restrict opportunities for students to plagiarise, has tended to mitigate against embedding assessment into learning, thus privileging examinations,^{vi} and the over application of institutional rules favouring standardisation and rigidity.

More recently, locating assessment within the framework of the conferring of degrees, the Burgess Report^{vii} has taken a critical look at the UK honours degree. Burgess discovered that despite being a ‘robust and highly valued qualification’ and ‘a core product of the UK HE system’, critical scrutiny and the ‘case for change is inevitable and long overdue’. The Report is concerned with the dichotomy of the ‘signing off’ of higher learning conferred through the awarding of degrees, and the

extent to which this is 'at odds with lifelong learning'. We might say it has had a backwards linkage to a 'tick box' mentality; the focus being on the awarding and receiving of marks and a concomitant surface approach to learning.^{viii} From this vantage point the assessment of student learning does not 'do justice to the full range of student experience', especially because it fails to 'capture achievement in some key areas of interest to students and employers'. The Burgess Report calls for a replacement of the summative judgement with 'a more sophisticated approach that better represents the outcomes of student learning and encourages personal development'. Student views chime with this, the 2009 Annual Report of the National Student Forum highlights a need for change, arguing that one of the key challenges for the future is to 'ensure a university-wide focus on assessment **for**, and not just of, learning'. [emphasis added] There is also a call for 'increased flexibility and innovation in course structures and modes of delivery.'^{ix}

In the past this debate has been approached from both traditionalist and non-traditionalist points of view. Traditionalists often hang on doggedly, thanks to departmental custom and practice, to tried and tested methods of assessment that appear set in stone. Tradition may in practice conceal a less than rigorous approach to assessment and there can be an exaggerated faith in the value of unseen, time-limited examinations, posing as a kind of gold standard, the ultimate means of attributing marks and assessing a student's acquisition of the learning outcomes. The defence of traditional ways of doing things has had an added trenchancy in certain subject areas, through the claim that it is the demands of the professional bodies that prevents assessment change. By contrast, innovation in assessment practice, in so much as it might represent a challenge to this orthodoxy, can often be viewed with suspicion as inherently undermining academic standards, irrespective of aims to the contrary, or more recently and cynically, as part of the tendency to 'dumb down'.

This value judgement, if uncritically repeated, is a sleight of hand that can dodge an uncomfortable truth about the fundamentally changed relationship of the contract between the student and the university, and how assessment regimes might be seen to sit like a 'commodity' within a student experience that has to be paid for personally or parentally. Now that HE has acquired the primary lexicon of the market economy, the educational discourse has shifted into the realm of functional economics and market forces: as often as not universities are perceived as 'businesses', students are 'purchasing education' and student debts so accrued are likely to be the first imperative for finding employment. To become indebted students surely anticipate 'value for money' transactions that extend across the whole student experience. It's what students collectively mean when they refer to the need to 'professionalise teaching and learning within institutions'.^x And what could be more essential to a student, when costing up the value of a good degree, than measuring the quality of the assessment 'product' that the institution uses to measure the acquisition of the learning outcomes and the apportionment of degree classifications? There are many drivers for change, but being addressed within a discourse of market economics is a great leveller of diversity, where good quality outcomes are the anticipation of **all** students, however they might be identified and classified in widening participation terms; always assuming they can afford to be there in the first place!

More than this, of course, the *raison d'être* of HE has manifestly shifted; the notion of higher learning for the sake of advancing knowledge and scholarly achievement, attached as it is to mythic and actual elements of elitism, is now contested by the proposition that HE has a functional responsibility for inculcating employability skills. Now it is no longer adequate for students to acquire that illusive status of 'graduateness' but to become, as a direct result of their time in HE, first and foremost employable in graduate entry employment. One of the main difficulties in this

emerging formulation is the nature of employer expectations of the new model graduate. Being work savvy carries with it a whole range of generic and career specific requirements, and there is emerging evidence that employers are unclear themselves, or at least at odds, about what they are looking for in graduate applicants except, in certain applied subject areas, a good knowledge of the relevant subject. It is the other, more amorphous skills, like the ability to 'fit in', the capacity to 'plan ahead', the expectation of 'a tidy but productive desk', the 'will to take the initiative', the 'good team player' and that 'willingness to learn on the job' that employers have strong feelings about. These combined expectations of the 21st Century employer of graduates, that the learning outcomes of university courses will help inculcate both subject-specific and generic employment skills is predicated, once again, on the fitness of assessment activity to encourage and measure the attributes that, in this case, an employer might wish for. In many instances, this requirement will be increasingly formalised and make an already complex activity more complex still. There will be a need for greater transparency to demonstrate how this is taking place.

Fortunately, in a mere ten years, aside from the clumsily termed but no less real effects of the 'marketisation' of HE, a breath of fresh air has pumped new life into this old debate. Whereas assessment practice might be hacked away at from all corners in a progressive attempt to, for example, challenge the relationship between learning and assessment,^{xi} or to unpack the validity of staff feedback on student learning,^{xii} or to re-evaluate the role of formative to summative assessment practices,^{xiii} etc., it is once again necessary to ask a bigger question: is how we assess relevant to the academy of widening participation? Of course, this question subsumes all the other elements, through a cultural shift that has rightly elevated the notion of inclusivity as the fundamental organising principle, against which assessment practice in HE can be re-evaluated for the 21st Century, and face the politically sensitive conundrum of how it can be costed to fit into the higher learning economy. However, we do have to ask ourselves just how clear we are about what this all encompassing notion of inclusivity means.

3 The reframing of assessment –the disability dimension

How the academy comes to find itself in this position of having to re-evaluate and reframe assessment practice, to try to promote assessment as a tool for inclusivity, is a circumstance worth considering. To begin with, it is necessary to be clear about the fact that inclusivity is a term with a double meaning, and a slippery one at that. On the one hand, it is articulated discursively to mean the diversity and difference that reflects the breadth of the student population at large, the distinctiveness of individual student identities and, collectively, all the complex elements that go to make up the equalities agenda. On the other hand, it is a term that, once explicitly defined in policy and applied in practice, invariably refers to the inclusion of disabled students and not necessarily the full breadth of the other equity groups: class, race, gender, age, belief and sexual orientation. However, there should be little surprise at this slippage, as the issue of disabled student access was the first point of muscular principle for making inclusion work as a real practical outcome, and it was supported by a number of important drivers, some of them with real teeth, not least of which was a legislative bite, to make positive change possible. In itself, a once largely peripheral concern, the rights of disabled students (not always yet fully acknowledged) have become central and fundamental to the practices, in anticipation, of every member of staff, to the duties enshrined in policies and procedures of each individual HEI and to the underwriting of an expectation of a thoroughgoing sector-wide change in assumptions.

Unpacking the shift of ‘disability issues’ from the periphery where the disabled ‘others’ have to be invited in from, to the centre of inclusivity where everyone may be acknowledged to be different, is a fascinating inversion. The critical change in focus is a measure of how social, cultural and legal pressures have coincided with purely practical attempts in the sector, to rationalise contemporary assessment practices that got out of hand^{xiv} after a decade of attempting to accommodate disabled students into an essentially unchanged system.^{xv} Thus while inclusivity has become the watchword for a desirable approach to meeting the learning requirements of the full breadth of the equalities agenda, the critical factors driving the concept forward have been disability legislation and the practicalities of finding ‘special’ ways of accessing mostly standard modes of assessment for disabled students. Let us deal with the latter before we deal with the former.

Within the framework of growing student diversity there is little doubt that the number of disabled people participating in HE has increased over the years, even if the percentage increase and the distribution of participation can be hedged around with caveats; most particularly concerning variations in the methods of recording and the vagaries attached to disability disclosure.^{xvi} The most recent HESA statistics show that in 2007 25,970 students who applied through UCAS declared a disability, of whom 20,452 were accepted representing 5.6% of the total student intake of that year. Once on course for the academic year 2006/07, disabled undergraduates (part-time and full-time) represented 8% of the student population or 129,110 individuals, whilst disabled postgraduates represented 6% of the student population, or 21,140 individuals. Of course populations of disabled students in specific HEIs are disproportionately clustered according to a complex range of factors that cannot be explored here, except to conclude that well resourced disability support services have historically paved the way for enhanced recruitment, even where this knowledge has not been generalised throughout an HEI.

Sequential ‘special initiative funding’ for projects from the Higher Education Funding Council (HEFCE), the injection of revenue derived from establishing disabled student entitlement to the Disabled Students Allowances (DSA) and mainstream funding tariff-linked to the number of students allocated a DSA within an HEI, has pump-primed and then fed the growth of disabled student support services within the sector. The value of such services and the consolidation of specialist knowledge within them must be weighed against the compartmentalisation of experience between the staff so employed, and their colleagues in the academic departments. Structurally this division of knowledge - an unintended form of segregation - when viewed in the light of the prevalence of the medical model of disability - its actual progenitor- has created a special kind of difficulty in those areas where disability expertise has to be brought to bare on academic practice; and no more so than in the area of making assessments accessible to disabled students.

Historically this interface has been addressed through the mechanism of ‘modified assessment provision’; the contingent idea that through the offices of the disability support service and the exams office, ‘a level playing field’ for a disabled student can be rolled out by fixing the ‘special arrangements’ on an individual basis: by offering extra time, arranging a private study room, engaging an amanuensis, etc. These ‘special arrangements’ are the inevitable outcome of HEIs pursuing a ‘one size fits all’^{xvii} assessment system that disabled students have to be uncomfortably levered into. Recent research has shown that there is a significant level of student dissatisfaction with the provision of ‘special arrangements’ in many assessment settings. There is also the implication that levels of dissatisfaction and ambivalence have been under recorded because

disabled students erroneously imagined that direct criticism might result in ‘special arrangements’ being withdrawn.^{xviii}

However rational the allocation of a ‘special arrangement’ might sound for an individual student, when put to the test across an HEI, the logistics and resources may be strained to breaking point. Across an institution examining 9,000 candidates, 10% may require ‘modified provision’, and across the sector at large the number clearly runs into tens of thousands annually, and has increased in line with enhanced recruitment and retention. Within the higher learning economy the cost must be enormous and a legitimate target for axing in a sector facing in excess of £400 million of cuts in 2010. The looming crisis of ‘modified assessment provision’ overload is reason enough to want to change the focus of the debate, to remove the barriers to assessment that have historically necessitated ‘special arrangements’ for disabled students. Especially so, as paradoxically, in some HEIs, this activity has carried with it the illusion that ‘special arrangements’ are somehow inclusive because they allow disabled students access to a pre-existing edifice of assessment activity. It is at this juncture of making assessment practice really rational, rather than ‘bolt on’ for disabled students, that the remit necessarily broadens out to a changed perspective on inclusivity. For equities sake it is necessary to see that disabled students are simply individuals that are best viewed, not as ‘different’, not as a category, but simply as individual learners with different ways of learning. In this sense ‘disability’ is only a facet of the multiple identities that each one of us possess: as we can, each, also be identified and cross-tabulated for our age, gender, race or ethnicity, sexual orientation, religion or belief. This represents an important confluence of approaches: the requirement to circumvent the volume of ‘special arrangements’ is a driver towards inclusive change that at the same time eschews practices based on a kind of segregated thinking.

4 The legislative duty for inclusive practice

The clarion call to inclusive assessment practice for all students has its roots firmly fixed in recent disability legislation and it is necessary to look in a little detail at how this has underwritten a raft of changes in the HE sector. The process of recruiting disabled people into the sector has mirrored legislative attempts to negate disability discrimination in society at large, through making education one of the key loci for positive action. Incremental change from the 1990s onwards was accelerated through the functional benefits that accrued from the Disability Discrimination Act 1995 (DDA), which set the initial agenda with some rather reactive duties put in place to avoid discrimination.^{xix} More particularly, Part 4 of the DDA, commonly known as the Special Educational Needs and Disabilities Act 2001 (SENDA), provided the prerequisite framework for a model of compliance in the area of student-facing provision and services, based on the notion that HEIs were ‘responsible bodies’. Under the terms of SENDA, teaching, learning and assessment, amongst other aspects, acquired a new vocabulary: ‘anticipatory duties’ and the expectation that HEIs would be making ‘reasonable adjustments’ to facilitate the participation of disabled people. SENDA was the platform upon which it was possible to audit performance for compliance across a whole range of activities, including assessment, and to posit a model of inclusivity through ‘good practice’.^{xx}

The DDA (as amended, 2005) with its subsequent Code of Practice (2006)^{xxi}, delved into, and unpacked for clarification, some of the grey areas of institutional resistance. A hardening of the effective sinews for HEIs, to help establish them as vectors of anti-discriminatory change, was garnered through establishing a new duty to encourage a systematic, whole-institutional approach

to inclusivity by eradicating discrimination. When surveyed disabled students have reiterated the need to support teaching and learning through the desire to see ‘all universities....personalise and differentiate approaches to take account of disabilities....and learning styles.’^{xxii} Numerous universities have enthusiastically taken this forward, some under the banner of the Higher Education Academy.^{xxiii} This was also the background to the requirement that HEIs should draw up Disability Equality Schemes and, crucially, that disabled people should provide a key role in the designing of the concomitant action plans.^{xxiv} The revised QAA Code of Practice for Disabled Students (2010) also alludes to the expectation of disabled student involvement in activities targeting inclusivity, and there is an emphasis being placed upon programme and module review and validation procedures focusing upon the flexibility necessary to enable students to demonstrate their acquisition of the learning outcomes.^{xxv}

Taking a whole institutional approach had important ramifications for how the requirements of individual disabled students might be regarded. In this light, the duty of making ‘anticipatory reasonable adjustments’ acquired a **collective** approach, thus adding a corrective to the relatively limited focus of making ‘additional’ arrangements to meet ‘specific individual requirements,’ except in a necessary handful of instances. The Code of Practice proposed that it was more cost effective for HEIs to consider the needs of a range of disabled people, as part of their remit to plan ahead, thus avoiding legal challenges in instances of disabled students being put at a ‘substantial disadvantage.’^{xxvi}

In practical terms the pressure to take a collective approach to the requirements of disabled students by being as anticipatory as possible, implies understanding the specific parameters of a range of types of disability and their individual impacts to create a more inclusive learning environment. Given full reign, in the context of the overall equalities agenda, to which it is obviously allied, this prerequisite demands a level of willingness to recognize the characteristics of individual students which does, of its self, seem to imply an enlightened approach to the question of student identity. Acquiring this level of expertise amongst staff is a good thing, but focusing on the binary opposition between the ‘disabled’ and the ‘non-disabled’ seems to be a somewhat arbitrary limitation, when the capacity to be able to make the distinction, is merely a facet of being able to see that individuals have multiple identities and complex learning requirements that make different demands on teachers. This observation, of course, has important ramifications for how assessment is organised and delivered in programmes.

5 Making assessment inclusive

In the revised QAA Code of Practice for Disabled Students (2010) the guidance reminds institutions that they ‘should seek to monitor the consistency and comparability of inclusive assessment practices across modules, programmes, departments and faculties.’^{xxvii} Furthermore the QAA directs HEIs to adopt ‘assessment strategies appropriate to meet the entitlement of individual students’ reflecting the fact that ‘there may be more than one way of demonstrating the attainment of the learning outcomes.’^{xxviii} Fortunately the latest disability legislation directly tackles the issue of making assessment accessible and inclusive a little more forcefully. Referring to the purpose of assessment to ‘determine a student’s competence in an area’, and to the need for ‘examinations and assessments’ to be ‘rigorous regarding standards so that all students are genuinely tested

against a benchmark', the legislation has a clear preference for how assessment should be conducted. The watchword is '**flexibility**'. If assessments are

“...to fulfill their purpose, they must also be flexible regarding the mode of measurement so that each student has an equal opportunity to demonstrate their competence. In some cases this may mean changing the existing examinations or assessment practices within an institution. In all cases it will mean being clear about precisely what is being assessed....”^{xxix}

As a second critical strand to this call for flexibility, the legislation, in recognition of the urgent need to minimize the growing volume of 'reasonable adjustments' embedded in 'special examination arrangements', proposed an obvious caveat.

“Changing the delivery mode of assessment to one that is accessible to as many students as possible will reduce the need to make numerous reasonable adjustments for individual students and should mean that the education provider will be complying with the anticipatory duty.”^{xxx}

These two inter-linked clauses of the legislative Code of Practice make an important presumption, one that affords us the opportunity to acknowledge that the imperative to not discriminate against disabled people will have benefits for all students. In alluding to 'each student' and to 'as many students as possible' the disability legislation is promoting the fact that making assessments flexible is of a general benefit to all students in the sector. It is acknowledged in the legislation that, even accepting the transforming benefits of the mainstreaming approach, there will still be the necessity in a small number of circumstances to tailor alternative assessments and offer 'special arrangements' to some disabled students.^{xxxi}

The flexibility in assessment that the legislative Code of Practice refers to might be interpreted in two divergent ways, concerning both the temporal nature of the response and the scale of the approach. Flexibility might be regarded as:

- the **reactive** provision of a different mode of assessment in a circumstance where the existing assessment mode is not suitable for a candidate;
- a **proactive** provision of assessment **choice**, offering different ways to all candidates to demonstrate their acquisition of the learning outcomes.

Given the emphasis of the legislative Code of Practice upon mainstreaming provision, the drive to minimize the number of individual 'reasonable adjustments' being made, and the target of attending to the requirements of 'as many students as possible', it is difficult to see the logic of promoting being reactive, except in special, occasional circumstances. The building blocks of the Act leave little doubt that in the area of assessment, it is assessment choice which is most likely to deliver the desired outcome of inclusivity. Research in this area reinforces this conclusion. As part of the ambitious SPACE Project involving approximately 800 disabled and non-disabled students, by far the largest of its kind in the UK to date, 480 respondents in total participated in a range of alternative and inclusive assessment pilot programmes.^{xxxii} Developed incrementally, beginning with alternative and moving on to inclusive assessments, the Project concluded with a ground-breaking inclusive assessment pilot. This focused on 146 students (of whom 14 were disabled) drawn from three courses within the School of Engineering at the University of Plymouth.

After student feedback, students were offered the assessment choice of 4 different assessment modes to assess the same learning outcomes: the previously standard end of module test; course work; portfolio and, by student request, weekly summative tests. This pilot delivered a complex and rich picture of the range of issues involved in staging assessment choice for a large cohort of students. It helped focus attention on the resource implications, student and staff satisfaction ratings, the attribution of grades and the removal of distinctions between disabled and non-disabled students. Briefly:

- There was an increase in the amount of staff resource required to supervise student choice and build a framework for assessment consistency to support the reliability of marking.
- There was a concomitant drop in the demand for ‘special arrangements’ from the disabled students, with its own freeing up of resources.
- There was a marked reduction in the number of students obtaining the lowest grades.
- There was a marked increase in the number of students obtaining grades of 60%+.

In all it was regarded as a considerable success, even for hard pressed staff.^{xxxiii} As a concrete example of the application of assessment choice in action, the actual modes of assessment offered - in so much as they must maintain rigorous academic standards – are best grounded within a framework of understanding student preferences for different types of assessment mode, and the backgrounds from which such preferences arise.^{xxxiv}

6 The legislative duty and the setting of ‘competence standards’

The area of ‘competence standards’ is one where the ideal of inclusivity is most contested. The new legislation attempted to address pockets of resistance to the participation of disabled people that had been, inadvertently, legitimized by the inclusion in the DDA Part 4 of the guidance that disability discrimination could be legitimate, if deemed necessary, to uphold academic or other prescribed standards. It was this element that was taken to be a defence of traditional ways of doing things, by some academics, thus providing ambiguous grounds to prevent assessment change. Clearly difficult to interpret equitably,^{xxxv} this caveat was replaced in the amended legislation (2006) by the requirement that post-16 education providers should seek to set non-discriminatory ‘competence standards’ for each one of their programmes. The Act defines a ‘competence standard’ as an ‘academic, medical or other standard applied by or on behalf of an educational provider for the purpose of determining whether or not a person has a particular level of competence or ability.’^{xxxvi}

Several exemplars are provided. In one, ‘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.’^{xxxvii} The legal interpretation of the approach of an HEI to its setting of the ‘competence standards,’ all hinges on the legitimacy of the ‘competence standard’ being applied. To be genuine they must be shown to meet a set of criteria:

- be proportionate in achieving a legitimate aim;
- exhibit a pressing need that supports that aim;
- be causally linked to achieving the aim;^{xxxviii}
- be applied equally to non-disabled people;^{xxxix}
- not be direct discrimination.^{xl}

The Act clearly states that it is an ‘assessment of the purpose and effect of the competence standard itself’ that counts, and not ‘an assessment of the individual disabled person.’^{xlii} As a corollary, the legislation recommends that HEIs consider:

- the nature of ‘competence standards’ in advance of any issues arising;
- the purpose of ‘competence standards’ and how they achieve their purpose;
- the impact of ‘competence standards’ on disabled people;
- the possibility that ‘competence standards’ can be achieved in other ways;
- the opportunity that technological changes might make in affecting the achievement of ‘competence standards’.^{xliii}

This legal duty, wherever possible, is intended to protect disabled people through making HEIs mindful that a ‘competence standard’ is the basis of sound inclusive design - a precise tool for avoiding discrimination. This has important ramifications for programme design, course delivery and assessment regimes. Such ‘competence standards’ would be described and embedded by course teams during the routine of courses development and validation, and enshrined in course entry standards, learning outcomes, assessment criteria and assessment modes. Since 2004 the ‘competence standards’ of professional bodies have also enjoyed the requirement that they should be set to not discriminate. Where university courses incorporate such ‘competence standards,’ it is the HEI that is responsible for the non-discriminatory application.

In exceptional circumstances an HEI might wish to justify refusing an applicant on grounds of disability, and would have to be able to support the decision on the basis that the individual would not be able to meet many elements of the course.^{xliii} If a ‘competence standard’ can not be assessed in any other way there is no requirement under the Act to make a ‘reasonable adjustment,’ unless there is some element of the ‘competence standard’ that could be reasonably adjusted.^{xliv} In terms of assessment, where a course requires a student to demonstrate their personal ability to perform a particular technique, or where a practical technique has to be performed within a time limitation, and that is the very purpose of the test, there is no requirement to offer, respectively, the special arrangements of an alternative assessment task or the addition of extra time. Again, it is presumed that these would constitute fairly exceptional circumstances.

7 A clarification of the terms of reference

Finally, it is necessary to make some concluding remarks about how the legislative duties put in place to meet the requirements on HEIs not to discriminate against disabled people, particularly in the area of assessment, provide a useful platform for thinking about inclusion as a general principle. For good practical reasons we have concentrated here on how the legislation and practical aspects of responding to disabled students in HE have driven the inclusivity agenda forward. As specialists working in the area of disability inclusion, our understanding of these issues has derived from the difficulties inherent in operating in systems of binary oppositions, ones that label students ‘disabled’ and ‘non-disabled’, while also allowing for much broader and more nuanced systems of identifying similarities and differences amongst students. In this way we have emphasised the importance of seeing that inclusive practice must reflect the requirements of the broadest equalities agenda; that students inhabit multiple identities that are not comfortably compartmentalised.

In the past we have sought clarity about the different ways that students, initially disabled students, were assessed and we found it convenient to describe a tri-partite system of assessment activity.^{xlv} This has particular pertinence, also, in the present circumstance of wishing to be crystal clear about what inclusive assessment might mean in practice, in contrast to ways of assessing that are not inclusive. We have adopted the terms the ‘contingent approach’, the ‘alternative approach’ and the ‘inclusive approach’ as a means of getting to the essence of what is different in these contrasting ways of assessing students.

Briefly, the ‘contingent approach’ defines those ways of assessing disabled students that have been consolidated within the framework of ‘special arrangements’, or ‘modified assessment provision.’ Disabled individuals are offered extra time, a private study room, an amanuensis, etc. The ‘alternative approach’ considers ways of assessing the learning outcomes by substituting one method of assessment for another, for example, offering an individual disabled student the opportunity to undertake a viva voce, instead of submitting a written essay. Both of these approaches are based on making accommodations within existing systems: both target disabled students; both are based on individualising a response irrespective of the numbers that might actually be involved; both are based on the objective of making ‘reasonable adjustments’ to existing practice; and neither is primarily ‘anticipatory.’ Critically different and involving strategic institutional change, the third category, the ‘inclusive approach,’ does not target individuals; it does not single out disabled students as ‘special’; it attempts to address the assessment requirements of all students; it is the most likely approach to satisfy the legal requirement on an HEI to meet its disability-related anticipatory duty. Curiously, the ‘inclusive approach’ is also the most likely to be confused with the other approaches, as the ‘special arrangements’ of the ‘contingent approach’ and the one off replacement of the ‘alternative approach’, are often articulated, erroneously, in the assessment policies of HEIs as ‘inclusive practice.’

It is possible to be more categorical about what inclusivity means in the context of assessment, through rehearsing the defining factors. The legal requirement to be inclusive, taken in its broadest sense to include the social imperative not to discriminate against any category of individual, is the first defining factor. It should define all the activities of each HEI. Offering inclusive assessments that are flexible to students is a second defining factor, recognising both the breadth of student diversity enshrined in the full equalities agenda and the necessary functional achievement of HEIs meeting their ‘anticipatory duty’ towards disabled people. It is only at this point that the third defining factor, that an absolute minority of disabled people will need to be addressed on an individual basis, raises disability-related questions of how to proceed.

Given the imperative to be anticipatory, it is these few individuals who will ultimately settle the legitimacy of the setting of ‘competence standards,’ and it is only this small group who will require those ‘reasonable adjustments’ currently delivered in their tens of thousands through the ‘contingent’ and ‘alternative approach’ to assessment. Hopefully, how we proceed in the future will see a drastic diminishing of the ‘contingent approach’, and pragmatic economics would predict the same demise for thousands of ‘special arrangements’, leaving only a handful of replacement assessment activities available to a small minority of disabled students through the ‘alternative approach’ to assessments. For the vast student body, however it is defined and categorised into divisible elements of identity, the objective of inclusion properly met, should not need to focus much upon disability at all. Instead, it will concentrate upon ways of ensuring that students are recognised

as complex individuals, and programme based systems of assessment will be designed to flexibly respond to how students learn best.

To this end we offer a set of definitions to clarify the use of the term inclusive assessment.

8 The use of the term Inclusive Assessment

Because the term ‘inclusive assessment’ has acquired a rather taken-for-granted meaning, interchangeable for the purposes of referring to the inclusion of disabled students, and more generally referring to the inclusion of the full breadth of the equalities agenda, it exists rather more as a concept than a definition available through coherent actions. Here we provide a set of statements intended to help clarify what might be meant by this seductive catchall.

When we use the term ‘inclusive assessment’ we do so to:

- Indicate a fair way of assessing for learning that achieves the objective of measuring the learning outcomes of a course and awarding grades, while recognising student diversity and different learning styles.
- Maintain academic standards while offering flexibility and assessment choice as a complementary element of taking a flexible approach to delivering teaching and learning.
- Promote the responsiveness of academic staff to the diverse student population, using inclusive assessment as a tool to aid student retention and progression by helping to inculcate a sense of student engagement.
- Establish a clear concept of assessment that targets **all** students and is not to be confused with the making of ‘reasonable adjustments’ through modified assessment provision and alternative assessments that are exclusively targeting disabled students.
- Highlight the need for academic staff to make clear the learning outcomes to be assessed, the ways in which they can be assessed and to offer student support for choosing a suitable assessment method to reflect their learning style.
- Acknowledge that achieving inclusivity in assessment practice will necessitate a thoroughgoing embedding of policy, procedure and practice at course planning, approval, review and evaluation, linked to teaching and learning action plans and institutional assessment policies.
- Draw attention to the need to examine the issue of assessment loading across modules and in programmes that may not be inclusive and to consider alternatives.
- Encourage academic staff to consider the resource implications of modified assessment provision for disabled students, and view inclusive assessment as a more cost effective approach than making countless individual ‘reasonable adjustments’.
- Promote this approach as a key focus for on-going staff development, particularly with reference to the post-graduate Teaching and Learning Certificate for new lecturers, and as an element of academic staff appraisal.
- Highlight this method of assessment as a platform for higher learning by addressing the requirements of a range of stakeholders with particular reference to professional bodies, the workforce (or do you prefer employers?) and legislative and quality auditing requirements.

When we use the term 'inclusive assessment' we **do not** do so to:

- Prescribe the content of assessment, except in so much as it precludes the use of bias, stereotypes or excluding language, aside from occasions where these are the focus of an exercise of critical analysis.
- Circumscribe the mode of assessment, except in circumstances where the assessment method disadvantages particular styles of learning and cannot, therefore, be considered to be inclusive.
- Presuppose the purpose of an assessment, which may set out to measure the conjoined elements of subject-specific content with graduate attributes and skills - now extended to explicitly include employability related learning in the curriculum - except in so much as assessment should not unlawfully discriminate to obtain these ends.

Encourage the idea that flexibility and assessment choice is a student free for all, but that inclusive assessment within a programme should maintain a range of modes of assessing which inculcate the prerequisite range of graduate attributes and skills demanded of the module or programme. At the same time these should reflect the diverse learning styles of the current student cohort.

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