



# ENABLING NOT DISABLING





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# CHECKLIST

## For branches and local associations

- 1** Does your institution have an equality committee/forum with trade union representation? **YES**  **NO**
- 2** Does your institution have a disabled staff group? **YES**  **NO**
- 3** **Is there a disability policy?** **YES**  **NO**
- 4** Was it negotiated with the union? **YES**  **NO**
- 5** **Were disabled members of staff actively involved in writing it?** **YES**  **NO**
- 6** **Has the disability policy been updated to take into account the Disability Discrimination Act 2005?** **YES**  **NO**
- 7** Do all members of staff have copies of the policy? **YES**  **NO**
- 8** **Has your institution begun to monitor its staff profile by disability?** **YES**  **NO**
- 9** **Has the institution begun to publish the results of its staff monitoring?** **YES**  **NO**
- 10** Has the institution set targets for recruitment where the staff population is under-representative of key groups? **YES**  **NO**
- 11** Have members of staff been invited to contribute to a public discussion on what the general duty to promote equality between disabled and non-disabled people means for all areas of the institution's work: including budgeting, work with contractors, maintenance of buildings, curriculum? **YES**  **NO**
- 12** **Have groups of disabled staff been actively involved in assessing the institution's general progress towards achieving equality between disabled and non-disabled people?** **YES**  **NO**
- 13** Have groups of disabled staff been specifically consulted on key institutional policies, which are likely to have a significant impact on disabled staff? **YES**  **NO**
- 14** Have all staff received training in work time on the implementation of the act? **YES**  **NO**

**If the answer to questions 3, 5, 6, 8, 9 or 12 is NO, your employer may be breaking the law.**

# 1 INTRODUCTION

## Summary

This document is designed as a guide to UCU branches and local associations on the rights of UCU's disabled members. The first section opens with some statistics on the employment of disabled staff. It continues with a discussion of three key concepts: consultation, reasonable adjustment, and the distinction between the medical and social models of disability.

The second section explains the legal requirements on employers and on trade unions. The Disability Discrimination Act (DDA) 1995 introduced the first legislative equality for disabled workers. It has since been augmented by the Disability Discrimination Act 2005 which creates further responsibilities including a general duty to promote equality for disabled staff and a specific duty to consult with groups of disabled lecturers on all aspects of college or university policy.

Employers have legal duties to protect the conditions of disabled lecturers. The third section, therefore, gives examples of best practice at work, in areas such as recruitment and retention. It also describes potentially helpful government schemes including Access to Work.

The fourth section sets out good practice for UCU branches and associations, including in the choice of venues, and in communications.

## Context

The DDA defines a disability as 'a physical or mental impairment which has a substantial and long-term adverse effect on (a person's) ability to carry out normal day-to-day activities.' Using this definition, it is estimated that there are some 9.8 million disabled people in Britain. Many barriers exist which contribute to institutional discrimination against disabled people. Disabled people of working age are twice as likely to be unemployed as other people. They remain unemployed on average for twice as long. Statistics from the Labour Force

Survey suggest that around one-fifth of the total working age population (6.8 million people) have a 'work-limiting long-term health problem or disability'. There are 2.5 million disabled people out of work and on state benefits. They constitute over one-third of the total disabled population of working age (Disability Rights Commission, 2004a).

In 2003–04, there were over 120,000 disabled students in British universities (National Disability Team, 2005); just more than one in 20 of the total student population. There have been very few reliable studies into the numbers of disabled staff teaching in higher and further education. If the studies of the total working population are correct, and given the age profile of teaching, we should expect around one in seven or eight lecturers to be disabled, whereas in fact rarely more than one in 50 further or higher education lecturers declare themselves to be disabled in any survey. This tendency towards under-reporting may have its roots in lecturers' fears of being stereotyped as dependant.

When disabled people look for work they often encounter barriers. These may include the physical obstacles involved with getting around some buildings but are just as likely to result from other people's false assumptions about the abilities of disabled people. Thus, disabled people may be rejected at the first stage of the recruitment process, long before any objective assessment of their abilities and potential has been made.

Research undertaken by the independent Institute for Employment Studies shows the importance of recruitment practices, and demonstrates that even those employers with policies to encourage the employment of disabled people often fail to attract disabled applicants (Dench *et al*, 1996).

The development of a comprehensive disability policy and the development of associated procedures are the essential ways to start in remedying the discrimination faced by disabled

people in the workplace. UCU representatives must ensure employers recognise the benefits of recruiting disabled people. Disabled lecturers are a source of valuable talent that should not be ignored. Developing a strategy to retain staff who become disabled in the course of their career means that investment in knowledge, skills and training will not be wasted. It is expensive to replace staff who feel they have no choice but to leave. Agreeing a retention strategy should develop the loyalty and commitment of staff to the institution.

Some of the methods of tackling discrimination against disabled people will differ from ways of dealing with sex and race discrimination. 'One fact that makes disability so hard to understand', writes disabled activist Sunny Taylor, 'is that there is no single model of disability; the human body can be impaired in an almost infinite number of ways, and people of all walks of life can become impaired' (Taylor, 2005). Disability is dynamic; it can fluctuate and can be acquired; it is relative to the environment; its impact varies from individual to individual. Institutions need to develop flexible responses. It is also necessary to accept and value difference and to challenge negative assumptions that can be made about a person's suitability for a post or their ability to continue in a job if they become disabled.

One way in which disability law differs from other anti-discrimination laws is through the concept of reasonable adjustment. The 1995 DDA established a rule that where an employer makes any arrangement with regard to the nature of work or to the work environment, and where this arrangement puts disabled staff at a disadvantage, the employer has a duty to take reasonable steps in order to prevent that arrangement from having that discriminatory effect. The detail of how reasonable adjustments should work is discussed more fully in sections 2.2, 3.1 and 3.3.

The DDA 2005 goes still further. It requires all public bodies to promote equality between disabled and non-disabled staff. This disability equality duty should then influence every aspect of a college or university's work: from staffing to curriculum. Colleges and

universities will have to draw up disability equality schemes, starting from autumn 2006.

Perhaps the single most important feature of the new Act is that it gives disabled staff a special role in scrutinising the operation of the act: the college or university's disability equality policy will have to be drawn up in consultation with disabled staff, the equality scheme will also have to be produced in consultation, and any other policy will be subject to disability equality impact assessment, in consultation again with disabled staff.

## **Social model of disability**

In recent years, disabled people have used their personal experiences of disability to demonstrate that it is not their condition or impairment which causes the 'problem' but the way society fails to make allowance for their differences and excludes them from fully taking part in work and social life. This analysis of disability has become known as the 'social model'. The 'medical model' attributes the causes of disability to medical conditions and sees the disabled person as the problem, believing they should adapt to fit into the world as it is. If this is not possible, then they are shut away in some institution or isolated at home.

Sunny Taylor explains: 'Disability is the political and social repression of impaired people. This is accomplished by making them economically and socially isolated. Disabled people have limited housing options, are socially and culturally ostracised, and have very few career opportunities. The disabled community argues that these disadvantages are thus not due to impairment by its nature, but due to a cultural aversion to impairment, a lack of productive opportunity in the current economy for disabled people, and the multi-billion dollar industry that houses and 'cares' for the disabled population that has developed as a consequence of this economic disenfranchisement. Disablement is a political state and not a personal one and thus needs to be addressed as a civil rights issue' (Taylor, 2005).

One of the limitations of the law is that it tends to start with the medical model, and progress by

saying that the inability to carry out activities is caused by some impairment. Using the social model of disability should help union representatives to argue more effectively for equality.

### **Social model of disability**

Some or all of the factors below make a person disabled:

- ▷ discriminatory assumptions
- ▷ lack of appropriate support and training
- ▷ stigma of special education or special needs
- ▷ language labelling
- ▷ myths and stereotypes
- ▷ lack of knowledge of employment responsibilities
- ▷ prejudice
- ▷ lack of flexible working conditions
- ▷ inflexible job descriptions
- ▷ lack of knowledge and understanding
- ▷ lack of access to facilities
- ▷ lack of access to buildings
- ▷ negative images
- ▷ fear and ignorance
- ▷ lack of access to equipment and support
- ▷ managers' ignorance of the issues

The term 'disabled people' is preferable because it is based on the premise that people are disabled by society whereas 'people with disabilities' takes the problem away from society and places it back with people.

Some impairments, such as asthma, may be widespread and relatively widely understood, others, such as mental impairments, may carry a very high degree of stigma.

The duty of branch or association officers is to combat negative attitudes from employers or colleagues.

### **Role of the union**

Disabled members in UCU have two important rights:

- ▷ to participate in the work of the union

- ▷ to be represented by the union in the workplace.

### **Workplace representation**

Union representatives should:

- ▷ understand the needs of disabled members
- ▷ elect a branch or association representative to have responsibility for equality issues, including the needs of disabled people
- ▷ attend relevant training events for branch or association officers
- ▷ negotiate a policy on disability with management to include recruitment and retention policies such as disability leave
- ▷ review all local union policies to ensure they do not discriminate against disabled people
- ▷ ensure all disabled employees have equal rights to training, promotion and other aspects of career development
- ▷ press for training for management and governors to include disability equality
- ▷ familiarise themselves with the basic provisions of the DDA and ensure disabled members know they have the right to lodge claims of discrimination with employment tribunals should internal procedures fail to remedy discrimination.

If branch or local association representatives want to do more, the best place to begin is always by asking disabled members themselves.

### **Participation in UCU**

Union representatives should:

- ▷ ask disabled members what their needs are
- ▷ review access to participation in the work of the union by disabled members
- ▷ educate all members to combat negative stereotyping of disabled people
- ▷ arrange for speakers on disability issues to attend branch or association meetings
- ▷ encourage disabled members to participate at all levels by giving a commitment to ensure meetings and other events are fully accessible

- ▶ ensure disabled members are aware of union courses
- ▶ attend UCU training events for branch or local association officers on disability issues
- ▶ publicise the UCU disabled members network and facilitate local networks to provide disabled members with support
- ▶ remember not all disabilities are visible.

This document aims to assist negotiators to challenge discrimination against disabled people, looking at:

- ▶ equality policies
- ▶ good practice in recruitment and retention
- ▶ legal obligations under the DDA
- ▶ access to UCU services.

## Disability Discrimination Act (1995)

The Conservative government introduced the Disability Discrimination Act (DDA) in November 1995. It was a cautious response to the campaign for comprehensive anti-discrimination legislation. But, for the first time, disabled people had the right not to be discriminated against in employment. The Act also established a duty on employers to make adjustments to overcome any disadvantage caused to disabled people by their employment arrangements.

The DDA aimed to end discrimination against disabled people in the provision of goods and services, and in buying or renting property. By a mechanism of setting standards, the DDA began the process of making public transport more accessible. The DDA did not amount to full civil rights for disabled people. Since 1995, however, a number of new laws have also come into effect including the Disability Rights Commission Act 1999 and the Disability Discrimination Act 1995 (Amendment) Regulations 2003. A second DDA was passed in spring 2005, and its main provisions are due to come into effect in December 2006.

The two most important provisions of the DDA were that it established a common legal definition of disability, which remains in practice. It also gave birth to the idea of 'reasonable adjustments', which represent the minimum steps that an employer must take to mitigate the practical consequences of impairments to disabled people.

### Definition of disability

When disabled people have sought to rely on the rights set out in the DDA, they have in turn been challenged by their employers. Very often, cases have turned on whether a person bringing an action is actually disabled for the purposes of the act. The test is not a collective one, but an individual one. It is partly a medical test, and even more a legal one. A disability is defined as 'a physical or mental impairment, which has a substantial and long-term

adverse effect on his ability to carry out normal day-to-day activities.'

The DDA covers people who have or have had a disability. It does not cover all people who suffer unfair treatment 'on grounds of disability': for example, parents of disabled people or carers for disabled people. Unlike all other equality law, the DDA does not establish equivalent rights for disabled and non-disabled people. The Race Relations Amendment Act protects all public sector workers, black and white alike. By contrast, the DDA only covers people who have or have had a disability. It recognises in effect that disabled people have been the victims of endemic discrimination over many years, and it sets out basic mechanisms to redress the balance.

Subject to certain recent exceptions, which are discussed more fully below, the DDA does not define disability by condition: a person with diabetes may or may not be disabled; a person with dyslexia may or may not be disabled. The test is not limited to any particular conditions, but relates rather to a person's general conditions of life.

Under the DDA 1995, 'mental impairment' included mental illness only if the illness was a clinically well-recognised illness. This has subsequently been amended: there will no longer be a test of clinical recognition. One effect of this change will be to allow people with depression to come within the test. This change takes effect in December 2005.

People with a learning disability are covered by the DDA if it has a substantial and long-term effect on their ability to carry out normal day-to-day activities. Regulations may prescribe exceptions to 'severe disfigurement' such as deliberately acquired tattoos.

The impairment has long-term effects if they have lasted for 12 months or more, can be expected to last 12 months or more, or can reasonably be expected to last for the rest of the life of the person concerned.

Where a condition is controlled or corrected by medication, the impairment is treated as having the effect it would have had without this intervention. This point does not apply, however, to visual impairments which can be corrected by ordinary glasses.

## Employment provisions

The DDA originally stated that: 'an employer discriminates against a disabled person if, for a reason relating to their disability, the employer treats them less favourably than he would treat others not having the disability, and he cannot show that the treatment is justified.' Recent changes to the DDA have altered the balance between the disabled person and the employer. But the basic principle remains: in many cases, the worker will argue that the employer had a duty to make a reasonable adjustment, and the employer will respond by seeking to justify their action on some other grounds.

To establish unlawful discrimination, the disabled person will normally have to demonstrate that they suffered discrimination in comparison with some other person (the comparator) or with a group of people. It must be shown that the less favourable treatment was for a reason related to the disabled person's disability. Where the employer fails to provide reasonable adjustments to the working environment, this failure can provide the basis for a claim. The DDA covers applicants for jobs, those already employed, and people whose employment has ended.

The Act places a duty on employers to make 'reasonable adjustments' to the workplace, work equipment or organisation of work where disabled employees or applicants need them because of their disability.

The DDA describes some examples of reasonable adjustments:

- ▷ making adjustments to premises
- ▷ allocating some of the disabled person's duties to another person
- ▷ transferring to fill an existing vacancy
- ▷ altering work hours
- ▷ assigning to a different place of work

- ▷ allowing absence during work hours for rehabilitation, assessment or treatment
- ▷ providing training
- ▷ acquiring or modifying equipment
- ▷ modifying instructions or reference manuals
- ▷ modifying procedures for testing or assessment
- ▷ providing a reader or interpreter

Subsequent changes to the law have resulted in further examples of legitimate reasonable adjustments:

- ▷ changes to hours of work
- ▷ changes to hours of training
- ▷ the provision of mentoring
- ▷ 'other support'.

The law states that only reasonable adjustments need to be made and identifies the following factors which should be taken into account: the extent to which taking the step would prevent the discriminatory effect, the extent to which the new step would be practicable, the extent of the employer's financial and other resources, the availability to the employer of financial or other assistance when deciding whether or not to take the step.

Victimisation is also unlawful under the DDA. Employers must not discipline or otherwise discriminate against any person (disabled or not) who takes action under the act, appears as a witness at a tribunal hearing, or gives evidence to an internal grievance or disciplinary hearing. The employment provisions also cover part-time or temporary workers.

When the DDA was passed, one criticism was that there was no commission to champion the rights of disabled people, equivalent to the Commission for Racial Equality and the Equal Opportunity Commission. A further act was passed in 1999 to establish the Disability Rights Commission (DRC). The DRC now has a policy role, to champion the interests of disabled people, and a legal role, to provide assistance to disabled people, their colleagues and their employers in thinking through the various obligations set out in law.

The Disability Discrimination Act 1995 (Amendment) Regulations 2003 strengthened the DDA in a number of ways. The single most important change was the narrowing of justifications for unequal treatment: in other words, it is much more difficult for an employer to refuse a reasonable adjustment on unreasonable grounds such as cost.

The regulations introduced a new concept of direct discrimination, which can never be justified. This occurs when a person 'treats the disabled person less favourably than he treats or would treat a person not having that particular disability, whose relevant circumstances, including his abilities, are the same as, or not materially different from, those of the disabled person'. The regulations also introduced a new concept of harassment against a person on grounds of their disability.

To understand what some of the rules and counter-rules mean in practice, it is worth looking at one discrimination case, *Archibald v Fife Council 2004*. Ms Archibald became physically incapable of carrying out her job as a council road sweeper. The council understood that she was now disabled and arranged for her to be trained in office administration, and automatically short-listed for any administrative vacancies. Ms Archibald applied for over 100 such jobs. The administrative vacancies were at a slightly higher grade than her previous work, and as a result Ms Archibald was unsuccessful in all her interviews and eventually dismissed. At the House of Lords, Ms Archibald argued that the duty to adjust should have allowed her to access one of the promoted jobs without interview. The House of Lords held that Fife Council should have offered Ms Archibald an administrative post without interview. Such positive action would in fact fall within the scope of the DDA.

## Disability Discrimination Act 2005

In spring 2005, the government passed a new DDA. The 2005 act proposes several important changes to the DDA, and most of these provisions will come into effect in December 2006.

The new DDA 2005 goes further than any other existing anti-discrimination law. Its provisions

include a new positive duty on public authorities, requiring them to have to eliminate unlawful discrimination against disabled people. This general duty is then reinforced by a series of positive duties:

- ▶ public sector employers (including colleges and universities) will have to have a written and published disability equality policy
- ▶ employers will have a duty to monitor their staff by disability
- ▶ employers will be obliged to reflect on the outcomes of monitoring, and publish a disability equality scheme, setting out what they will do to achieve equality between disabled and non-disabled staff
- ▶ employers will have a duty to monitor the effectiveness of the scheme
- ▶ employers will be obliged to carry out a disability impact assessment: they will have a duty to look at the effectiveness of their policy and scheme, ideally on an annual basis, and they will also have a duty to look at all other new policies and assess their likely effectiveness in terms of creating equality between disabled and non-disabled staff.

Potentially, these duties are extremely far-reaching in effect: there is no reason, for example, why disabled staff and UCU members should not argue locally that policies of course closure or redundancy, or the college or the university's annual budget should be subject to these processes of impact assessment.

All the specific duties set out in the act are also subject to one further and defining obligation:

- ▶ The employer has a duty to consult with disabled staff and staff unions on the implementation of the act. (This duty to consult is stronger than the equivalent duties in other anti-discrimination legislation, even the Race Relations Amendment Act.)

The bill also introduces protection for certain progressive conditions including HIV, multiple sclerosis and cancer, which will amount to disability for the purposes of the DDA from the moment of diagnosis, and even before the symptoms take hold.

These changes to the definition of disability (including the opening up of the definition of mental impairments referred to above) came into effect in December 2005. On the same date the DDA was extended to cover general qualification bodies.

## Enforcement

People should always try to resolve complaints of discrimination through internal procedures. New statutory dispute regulations make it extremely unlikely that any individual will win there without having first exhausted all internal procedures, including grievance procedures and appeals. They also set restrictive time limits on the length of time after the event that caused the complaint in which employees have access to employment tribunals.

UCU officers representing disabled members will find that a close working knowledge of the DDA should give them an advantage in using internal procedures.

Failing that, disabled people who feel that they have suffered discrimination can take their case to an employment tribunal. The tribunal procedure is broadly the same as other areas of discrimination law.

Like claimants relying on equal pay legislation, race relations or gender equality law, people claiming discrimination on grounds of disability can make use of questionnaires which are available from the DRC's website.

Should the tribunal find in favour of the complainant the remedies include a declaration as to the rights of the complainant and the respondent, payment of compensation, a recommendation that the respondent take reasonable action to address the complaint.

For reasons which are discussed more fully in section 3.7 on using the law, UCU's advice is that complaints are most likely to succeed if they are dealt with 'in-house', and preferably through a process of collective discussion and negotiation, rather than by relying on tribunals or any other court to deliver justice.

## Educational provisions

The Special Educational Needs and Disability Act

2001 extended the DDA 1995 to cover every aspect of education. Since 1 September 2002, it has been unlawful to discriminate against disabled people or students by treating them less favourably than others. In addition, the law requires bodies to provide reasonable adjustments to provision where disabled students or other disabled people might otherwise be substantially disadvantaged.

Since 1 September 2005, educational bodies have also had a duty to make adjustments to physical features of premises where these put disabled people or students at a substantial disadvantage.

Colleges and universities have duties as employers, as educators and as providers of services. Funding councils and education authorities have duties to publish disability statements. Any college or university which limits access will be breaking the law.

There are duties to make reasonable adjustment, which are analogous to the duties that colleges and universities have as employers. The government has also made very large sums of money available to colleges and especially to universities, to make it easier for them to transform college buildings and to make them fully accessible under the DDA.

## Disability equality duty

The DDA 2005 proposes several changes to existing disability equality law. These come into effect on 5 December 2006. All public sector bodies (including colleges and universities) will now be subject to a general duty to promote equality between disabled and non-disabled people. This is similar to the duty to promote race equality under the Race Relations (Amendment) Act. This is a positive duty which builds in disability equality at the beginning of the process rather than make adjustments at the end after disabled people have complained about discrimination. Universities and colleges will also be subject to a number of specific duties.

### Summary of the general duty

The basic requirement for a public authority when carrying out their functions is to have due regard to:

- promote equality of opportunity between disabled people and other people

- eliminate discrimination that is unlawful under the DDA
- eliminate harassment of disabled people that is related to their disability
- promote positive attitudes towards disabled people
- encourage participation by disabled people in public life
- take steps to meet disabled peoples needs, even if this requires more favourable treatment.

### **Specific duties**

A number of specific duties will also come into effect:

- public sector bodies (including universities and colleges) will be required to write and publish disability equality schemes
- institutions must collect and analyse data on disabled staff and students
- institutions will be obliged to reflect on the outcomes of monitoring, and publish a disability equality scheme, setting out what they will do to promote disability equality
- institutions will have a duty to monitor the effectiveness of the scheme
- institutions will be obliged to carry out a disability impact assessment: this means that they will have a duty to look at the effectiveness of current and proposed policies and disability equality schemes and assess their likely effectiveness in terms of creating equality between disabled and non-disabled staff, and disabled and non-disabled students

All the specific duties set out in the act are also subject to one further and defining obligation:

- the institution has a duty to actively involve disabled people and the code of practice recommends involving staff unions in the implementation of the act

‘Involvement’ requires active engagement of disabled stakeholders, not simply ‘consultation’. Disabled people need to be involved in identifying barriers faced by disabled people, setting priorities for action plans and assisting planning activity.

This is stronger than the equivalent duties in other anti-discrimination legislation, including the Race Relations Amendment Act, where the requirement is to consult.

### **The Disability Equality Scheme and action plan**

The purpose of the Disability Equality Scheme is to demonstrate how public bodies intend to fulfil both their general and specific duties. All universities and colleges must have produced their disability equality scheme by 4 December 2006. The essential elements that the disability equality scheme must include are:

- a statement of how disabled people have been involved in developing the scheme
- the action plan
- arrangements for gathering information about performance of the public body on disability equality
- arrangements for assessing the impact of the activities of the authority on disability equality and improving these when necessary
- details of how the authority is going to use the information gathered, in particular in reviewing the effectiveness of its action plan and preparing subsequent schemes.

Institutions will have to report on progress on an annual basis.

### **Key dates**

By 4 December 2006 all universities and colleges must produce and publish their disability equality scheme.

### **Involving disabled people**

At the heart of the Disability Equality Duty (DED) is the requirement to involve disabled people in producing the disability equality scheme including the action plan. Involving disabled people is not only a requirement of the duty, but it should bring tremendous benefit in terms of expertise to the institution. Involvement should not be confused with consultation. This duty requires a very active engagement of disabled stakeholders at all stages, not simply consultation.

There will be a wide variety of ways of involving disabled people, including:

- existing forums, such as disabled staff networks
- setting up specialist forums of disabled people (where none exist at present)
- workplace trade unions
- segmenting and developing existing consultation mechanisms or utilising existing networks.

### **How will the duty be enforced?**

In relation to the specific duty and those bodies who will have to produce a disability equality scheme, the DRC will have the power to issue compliance notices where it is satisfied that a public authority has failed to comply with its specific duties under the regulations, and can enforce the notices in the county or sheriff court. In terms of the general duty any person, including the DRC, can apply to the High Court or Court of Session of a public body they thought was failing to comply.

### **Checklist for branches/local associations**

- use the introduction of the Disability Equality Duty as part of your bargaining agenda – *think about how to use the general and specific duties in any relevant casework and negotiations you are involved in*
- build disability equality into the way you organise – *you will find that disabled members may want to get involved and active in this area of work.*
- encourage disabled members to join self-organised groups and networks, at local, regional and national level – *contact UCU for more information about how to do this.*
- encourage your employer to actively involve a wide range of disabled people in its work in this area
- Press your employer to understand and adopt the social model of disability – *the social model changes the focus away from people's impairments and towards removing the barriers that disabled people face in every day life: it is*

*not the impairment that is the problem, or the disabled person, rather it is society's failure to take into account our diverse needs*

- press your employer to run disability equality training for all staff
- Get involved now in the development of the disability equality scheme – *put the Disability Equality Duty on the agenda of your next equality committee or joint negotiating meeting with your employer, find out what has been done to date; ensure there is trade union representation on the group tasked with producing the scheme; ensure the group is actively involving disabled people in its work; and send completed schemes to UCU*
- from 5 December 2006 monitor the Disability Equality Scheme and associated action plan
- tell members about disability equality and the new Disability Equality Duty, and the work you are doing in this area.

### **Questions to ask**

- 1 Does your institution have an equality committee/forum with trade union representation?
- 2 Does your institution have a disabled staff group?
- 3 Is there a disability policy?
- 4 Was it negotiated with the union?
- 5 Were disabled members of staff actively involved in writing it?
- 6 Has the disability policy been updated to take into account the DDA 2005?
- 7 Do all members of staff have copies of the policy?
- 8 Has your institution begun to collect and analyse evidence on disability and the promotion of disability equality?
- 9 Has the institution set targets for recruitment where the staff population is under-representative of key groups?
- 10 Have members of staff been invited to

contribute to a public discussion on what the general duty to promote equality between disabled and non-disabled people means for all areas of the institution's work, including budgeting, work with contractors, maintenance of buildings, curriculum?

- 11** Have groups of disabled staff been actively involved in assessing the institution's general progress towards achieving equality between disabled and non-disabled people?
- 12** Have groups of disabled staff been specifically consulted on key institutional policies and practices, which are likely to have a significant impact on disabled staff?
- 13** Have all staff received training in work time on the implementation of the act?

**If the answer to questions 3, 5, 6, 8, 9 or 12 is NO, your employer may be breaking the law.**

### **Further information**

Disability Rights Commission

<http://www.drc-gb.org>

<http://www.drc.org.uk/businessandservices/publicsectordutycode.asp>

[http://www.drc-gb.org/documents/dda\\_2005.doc](http://www.drc-gb.org/documents/dda_2005.doc)

Department for Work and Pensions

[http://www.dwp.gov.uk/aboutus/dda\\_2005.asp](http://www.dwp.gov.uk/aboutus/dda_2005.asp)

TUC – Advice for Unions on the 2006 Public Sector Disability Equality Duty

<http://www.tuc.org.uk/equality/tuc-11323-f0.cfm>

Equality Challenge Unit – Disability Guidance

<http://www.ecu.ac.uk/guidance/disability/guidance.htm>

UCU

<http://www.ucu.org.uk>

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### **Trade unions**

It is unlawful for a trade union to discriminate against disabled people in relation to membership

or to the terms on which it allows disabled people into membership. It is unlawful to discriminate against disabled members by denying access to benefits or varying the terms of membership.

When ballots and elections are taking place, the DDA requires that election materials are accessible to visually impaired members and that disabled members are not excluded from being able to stand as a candidates for election to union positions.

Trade unions' duties to their members are also governed by a statutory code published by the Disability Rights Commission: Code of Practice for Trade Organisations and Qualification Bodies (DRC, 2004b). This code sets out a number of duties which fall upon trade unions and professional bodies: for example, all trade union forms should be published in a range of formats. It also calls for trade unions to have a disability policy to ensure that disabled members are not being discriminated against. Accordingly, NATFHE (which with the AUT was one of the two unions came together to form UCU) produced such a policy, which was adopted by its national executive council early in 2005, and distributed to branches and local associations. This policy appears as Appendix 2 (see page 42).

UCU representatives should appreciate that the guidance outlined elsewhere in this document is not merely good practice, it may represent the minimum that branches and associations that should do in order to meet their duty to make reasonable adjustments.

One case study may give a sense of the range of issues potentially involved. What should a branch or association do if they are approached by a disabled person with a hearing impairment, who wants to join the union and wants to attend meetings, but does not think that the college or university will provide the interpretation she needs?

In this case, the branch or local association officers should sign the disabled person into membership, on exactly the same terms as anyone else.

In practice, this means that they should approach management to negotiate a facilities agreement so that this member can fully participate, not just in

her membership of the union, but in all other aspects of college or university life.

If the negotiations are drawn out, then the branch or association should fill the gap by providing interpretation at meetings; if necessary, this support should be funded from branch, regional, or national funds.

## Using the law

UCU members should always bear in mind that the law is weighted away from employees and towards employers. Decisions in employment tribunals are made by a panel of three people, only one of whom is likely to have been nominated for their experience as an employee's representative. Decisions in higher courts are taken by panels of judges who are closer in terms of class, wealth and outlook to the employer than the employee. UCU believes that the DDA itself is hedged around by a number of exceptions, which are designed to support an employer in court: not least the ability to justify indirect discrimination on some other grounds.

Going to tribunal can be an unpleasant, drawn-out and intrusive experience, which can add considerably to the anxiety of the person who has already experienced discrimination at work. Even in the landmark Archibald case, the disabled person lost her case at the employment tribunal, at the employment appeals tribunal and at the court of session, before finally winning her case on what was effectively the third appeal. Even in winning, the emotional costs to her and her colleagues were considerable.

Where UCU branches and associations take up the rights of disabled workers, they should therefore be guided by two linked considerations: the need to raise issues early, and the need to make disability a

collective, union issue.

Where members' complaints against their employer are raised early, it is more likely that they can be resolved without requiring an internal or external hearing. The emotional costs are less and the chances of winning are greater.

Where issues are dealt with collectively, the individual disabled member will not be isolated but will be able to feel the support of their branch or association. Above all, where branches and associations have not already done this, they should meet with their employers and negotiate a suitably robust college or university policy which sets out the rights of disabled members and detailed procedures concerning the reasonable adjustments procedure.

The national agreement on disability equality in employment, reached between the Association of Colleges and the recognised further education unions is printed as Appendix 1 (see page 35). Higher education branches and local associations should use this as a model to get something similar in their institutions.

Where branches and associations feel that they lack the expertise to guarantee the robustness of any college or university policy, they should look to suitable allies within the union to guarantee that the result is the right one: these may include lay regional structures, regional officials, UCU's equality unit and disabled members' groups.

Any policies negotiated with the employer should take the form of collective agreements, negotiated into the contract of employment, so that if the employer seeks to vary the terms of the agreement at some later stage, they can do so only with the consent of the UCU branch or association.

## Equality policies

Most institutions will have an equality policy. Few, however, have thought-out, positive programmes for countering discrimination against disabled people. It is important that equality policies should include sections dealing with the needs of disabled people. Indeed, the Disability Discrimination Act (DDA) 2005 requires all public sector employers to have a separate disability policy.

A model policy is attached at the end of this document as Appendix 2 (see page 42).

## What management should do

The most common way that a complaint comes to the union is something like the following: a request from a member who asks: 'My employer has done X. I think X will discriminate against disabled people. Can they get away with it?'

If UCU branches and associations receive requests of this character from members, they should assist the member in putting the request to management.

In deciding whether a college or university practice is legal or discriminatory, section 6 of the DDA 1995 places a duty on employers to make 'reasonable adjustments' to 'any arrangements made by or on behalf of an employer' or any 'physical feature of premises' occupied by the employer, where these arrangements 'place the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled.'

The act gives examples of changes that might constitute reasonable adjustment: making adjustments to premises; allocating some of the disabled person's duties to another person; transferring a member of staff to fill an existing vacancy; altering working hours; assigning staff to a different place of work; allowing staff to be absent during working hours for rehabilitation, assessment or treatment; arranging for staff to be given training; or the acquiring or modifying of equipment.

Every college or university policy, from the most routine to the most elaborate, is subject to the test of reasonable adjustment.

If managers receive a request to make some reasonable adjustment, they have two duties: (i) to make an adjustment, and (ii) to make a reasonable adjustment. If they fail to do both, they may be breaking the law.

## Checklist of good practice

The following checklists have been drawn up with a view to monitoring management's recruitment and retention procedures. In addition a checklist has been prepared to assist with safeguarding the health, safety and welfare of staff with disabilities. Too often 'health and safety' is used as an excuse to refuse employment to people who, apart from their disability, have all the necessary attributes for the job.

### Recruitment

Attempts to counter discrimination on grounds of race and sex have meant procedures being developed which try to be as objective as possible. The duty to make reasonable adjustments for disabled people requires a different approach. Disability often has an impact on job performance but there can be many ways of undertaking a task. It may be that the duties contained within a job do not all have equal weight. Therefore, in assessing a disabled candidate it might be reasonable to accept that a less important task could be given to another colleague provided that the main duties can be performed to a high standard.

**JOB DESCRIPTION** This should outline the key duties of the post. When a vacancy occurs, the job description should be reviewed to ensure that it does not exclude disabled people. Sometimes job descriptions can include unsuitable 'requirements', which are not in fact needed for the job, and which may serve in practice to discriminate against disabled applicants: for example the requirement

that candidates should have driving licenses.

**PERSON SPECIFICATION** This should be drawn up from the job description and used in the recruitment process to assess the suitability of candidates for shortlisting and appointment. Each job will have minimum criteria, which must be met in order for an appointment to be made. Some of the criteria will be identified for shortlisting and should be able to be assessed from the application form, the remainder will be confirmed at interview. The criteria must be relevant to the duties of the post, assessable and legal. Those involved in drawing up the person specification should ensure that the criteria do not discriminate against disabled applicants. When producing a person specification the following criteria should be used.

**Skills and abilities** These are the skills and abilities that the postholder will need to carry out the job successfully. If candidates with disabilities can demonstrate the skills and abilities necessary to carry out the job, environmental changes to the workplace should be made where possible to accommodate their needs.

When identifying the skills and abilities the job requires, generalised statements such as 'must have good communication skills' should be avoided. The job should be analysed to identify the tasks to be undertaken and the skills and abilities listed accordingly. It is also vital not to have a rigid view as to the way in which a particular task should be carried out. For example, the job may require the postholder to write reports, analyse data etc. A person with a visual impairment will be able to carry out these tasks with the appropriate equipment or assistance.

**Experience** This should not be limited to employment history. It can include any experience a candidate has which is relevant to the requirements of the post. Candidates who may have limited formal experience should be encouraged to list experience acquired away from work. What is important is the quality of the experience not where it was gained.

**Knowledge** Any knowledge relevant to the job should be stated, however acquired. Knowledge

may not have been gained through a formal academic route. It should be born in mind that disabled adults are 50% less likely to have a graduate qualification, but may have acquired similar or indeed higher skills through their experience of work

**Education** Qualifications essential to the post should be stated. Care must be taken to ensure that the type of qualification specified is not inflated. Do not just list the previous postholder's qualifications.

**ADVERTISING** The advertisement should be prepared with reference to the job description and person specification. The main purpose of an advertisement is to attract as many suitable applicants as possible.

Advertisements should include a statement welcoming applications from disabled people. For example, the advertisement could state, 'We positively welcome applications from disabled people who are under-represented in the institution. The institution is committed to provide specialist equipment and adaptations necessary to enable its employees to perform their work.'

The institution might also want to encourage applications from people from black and minority ethnic communities, women, candidates from particular age groups, religious minorities and lesbian and gay people.

The advert could also mention that employer will make any necessary reasonable adjustments during the recruitment process; and staff handling a recruitment process should be aware of the responsibility to respond positively and imaginatively to such requests.

Consideration should be given to placing a general advertisement in the disability press and websites, such as Disability Now, New Beacon and RADAR Bulletin.

All recruitment literature should be available in different formats, including large print, on audiotape and Braille, the minicom number should be publicised if available and it should be made clear that applications on tape will be accepted.

Finally, colleges and universities should know that under the DDA 2005 they may be liable if they publish a discriminatory advertisement for a post with some third party: if, for example, a discriminatory poster is placed on a departmental message board.

**APPLICATION FORMS AND MONITORING** Forms should include a tear-off section about disability. This section should only be used for monitoring purposes. Such monitoring will ensure that disabled applicants are attracted to apply for posts, that they are included in shortlists and that they are appointed when they are the best person for the job. Confidentiality should be observed about disabled people. Their details should not be disclosed without their permission.

**SHORTLISTING** The purpose of shortlisting is to select suitable candidates for interview from all the applications received. All application forms should be assessed against the shortlisting criteria contained in the person specification. Only those criteria that can be determined from the application form should be used for shortlisting.

When considering applications from candidates with a disability:

- applicants should be assessed on their individual ability to meet the shortlisting criteria; stereotypical assumptions should not be made
- applicants should not be discounted on presentation grounds alone as some candidates with disabilities may not have access to computers
- remember that a candidate with a disability may be able to undertake the duties of the post with the assistance of appropriate equipment and adaptations
- a particular way of performing a task should not be required unless it is crucial to the performance of that task. Ask the candidate what reasonable adjustment would enable them to meet the requirement.
- all candidates with a disability who meet the shortlisting criteria should be interviewed and assessed on the basis of their abilities.

**Interviewing** Most disabled people require little or no special provision for attending an interview and any impairment may be largely irrelevant to the job. For some people, however, a lack of understanding or of appropriate facilities can prevent them from performing at their best.

All candidates invited for interviews should be asked on the application form if assistance is needed. For example, a sign language interpreter could be provided, or a particular seating arrangement requested. Application forms should make it plain that requesting such provision will not be prejudicial to a candidate. It should be made clear how many people will be on the interview panel. In addition, a named contact should be provided for disabled people to discuss any practical arrangements in confidence beforehand.

Interviews must be held in a venue accessible to disabled people. Guidance should be provided in advance as to parking facilities and a disabled car parking space reserved as necessary. Staff at reception should be notified and/or a guide made available to assist the candidate from the car park or place of transport to the interview room. Interview panel members must have been trained in fair selection and recruitment procedures, and must have been members of the shortlisting panel.

When interviewing someone who has a visual impairment, as the candidate will rely on sound for direction and response, the panel should introduce themselves with an explanation of where they are sitting and avoid using non-verbal communication. They should ensure that the light falls on them so that they can be seen more easily.

When interviewing someone with a hearing impairment, the interviewing panel should face the candidate to assist if they are lipreading. Interviewers should speak clearly and distinctly, and not sit in shadow or in front of a bright light or window, lipreaders need to see the interviewers' lips. If required, audio loops should be available to support hearing aid users during every stage of the selection process.

People with a hearing impairment can also find it

hard to lipread people with beards, moustaches or audioloops.

Provide a qualified sign language interpreter or lip speaker if requested by the candidate. Ensure that the background noise is reduced to a minimum. Circulate papers in advance, as it is difficult to read and concentrate on what someone is saying at the same time. No one should speak when a lipreader is present without first catching her attention.

Consult with candidates to ensure that disabled people can compete in selection tests on equal terms with other candidates, by providing extra time, dictation facilities, a word processor and other facilities as appropriate.

The Civil Service disability website offers the following advice to interviewers: 'There should be no general questions about disability. When it is necessary to refer to a person's disability questions should be phrased positively. Instead of 'Surely you'll have difficulty doing?' it is more positive to ask, 'How have you...?' A question more specifically aimed at hidden disability could be 'Are there any points or questions you would like to raise about alternative working patterns and reasonable adjustments?' ([www.diversity-whatworks.gov.uk](http://www.diversity-whatworks.gov.uk))

Don't be afraid to discuss how disability might affect the candidate at work. The disabled person will know more about her impairment than anyone and will be realistic about her capabilities.

**APPOINTING** After assessing the merits of candidates in the final interview, the question of reasonable adjustments should be considered to compensate for any disadvantage that a disabled person might have in establishing their merit.

The panel should then identify the candidate who best fulfils the criteria for the job. This candidate must be considered capable of doing the job.

It may be agreed that the disabled candidate is the best person for the job even without consideration of reasonable adjustments. However, reasonable adjustments should still be addressed in order to create a good working environment. Best practice will consider adjustments throughout the entire

recruitment process.

Invite the successful candidate to visit the workplace. This way any equipment or adaptations required can be arranged before they commence in post.

**STARTING WORK** Ask the new employee what, if anything, new colleagues need to know about them before they start work. Make arrangements for visually impaired new employees to 'learn' routes around the workplace, including location of toilets, canteen, car park, public transport, and other offices. People who use guide dogs or hearing dogs need a space in which they can be kept. Some people find dog hairs aggravating so the area needs to be well ventilated and regularly vacuumed. In the event that evacuation of the building is necessary, arrangements should be put in place to ensure that any guide or hearing dogs use the appropriate staircase or exit.

Keep in touch with the new employee while adaptations are made.

### **Retention checklist**

Each disability is different as will be the surrounding circumstances. Procedures need to be adapted to each individual's needs. It is important to be clear about the difference between illness and disability. If someone has a hearing impairment they are not sick. A disability is more likely to be permanent than temporary: an illness may fluctuate. Union representatives should ensure management take appropriate action if there is:

- ▶ a change in the employee's conditions (because the disability is newly identified or degenerative)
- ▶ new tasks, equipment, patterns of work or venue which may affect a disabled employee
- ▶ departmental reorganisation.

Management and union representatives should not deal with the needs of disabled staff as an afterthought; the disabled colleague should always be heard.

Acquiring a disability or experiencing a gradual loss of function can lead to uncertainty, insecurity and a loss of confidence. Unless a retention strategy has

been developed, within an open, trusting and supportive workplace, any decision about her future the employee is asked to make at this time is likely to be ill-informed and wrong.

Union representatives must ensure sufficient time and privacy is given to discussions with newly disabled members about their future. Officers should not presume at the outset that they know what is possible and what is not, but seek advice prior to any negotiations with management. Good advice is essential as disability often comes as a surprise both to the individual and to management. Unless adequate information and support are provided many people may opt for ill-health retirement as the only choice that offers them some certainty in the form of financial gain. Since this decision may be taken at a time of crises, the institution may lose a valued employee and the person concerned may come to regret their decision at a later date.

Superannuation schemes can provide a reasonable degree of financial security at the end of the working life or earlier if the need arises. People can qualify for early retirement because of ill-health or disability. The individual must demonstrate that because of ill-health they are incapable of carrying out not any job but their own job.

Choosing the option of ill-health retirement can appear attractive not only to disabled or sick employees but to management. Nevertheless, those becoming disabled should bear in mind that, although the financial rewards may appear reasonable, it will by no means compensate for loss of employment. Let the disabled person make that decision – the institution's job is to inform them of the options and possible consequences. In addition, work can be an important part of a person's identity. To be without work bestows a different status on a person and many social contacts will be lost at a time when they will be most needed. It is possible that other work will be found but there may be a ceiling imposed on new earnings. However, most people will not find new work and being labelled 'disabled' will not help prospects. It may be that after all avenues have been explored, ill-health

retirement offers the best solution, but this route should not be used simply because it is expedient.

Management should designate someone to be responsible for implementation of the retention policy. The person charged with staff retention should provide an information resource, counselling, liase with outside bodies, know where to get specialist advice and help, provide training, and develop strategy. Ultimately though this work will be passed on to line managers – so they must be well-trained by the person with overall responsibility for retention.

### **DISABILITY REHABILITATION AND LEAVE**

A number of employers have begun to introduce disability rehabilitation as a means to deal with the needs of employees who have only recently become disabled. Disability rehabilitation is about adapting disabled people's employment rather than adapting the disabled employee.

Disability leave may be part of the rehabilitation process. Every employee should have equal access to disability leave regardless of length of service, hours of work or type of contract. Existing entitlement to sick leave and early retirement should not be affected.

Disability rehabilitation starts with the assessment of an employee's potential and consideration of adaptations necessary to enable the employee to remain in work. It is possible that after the assessment a period of disability leave will be necessary in order that the employee can learn new skills. No leave may be required, as solutions may be found in the installation of new equipment and changes to working practice.

Discussions about disability rehabilitation or leave may be initiated by an employee as a result of the onset of a disability or after a period of sickness leave. Some staff may begin sickness leave and change to disability leave if it becomes evident that they have a long-term disabling condition that will require changes to the way they work. What seemed to be sickness leave and then became disability leave could be retrospectively amended to protect the employee's sickness absence record.

One of the main aims of disability leave is to ensure that a newly disabled person has an objective employment assessment carried out prior to a decision about the future. The assessment will ascertain the employee's ability to perform the job by current methods or by new techniques involving new equipment or adaptations to the work environment. Once it has been decided whether the employee can return to their previous post or move to another, the assessment may recommend a programme of rehabilitation and retraining, an estimation of the time this will take, what equipment or adaptations to the work environment will be required and how funds can be obtained.

No one should have access to confidential information (especially medical records) unless authorised by the employee.

In operating disability leave management should involve and consult union representatives, who in turn should consult disabled members, particularly over terms and conditions.

The advantages of disability leave are:

*For the employee*

- staff will be able to report problems they face at work rather than hiding them for fear of job losses
- continuity of employment
- time for the employee to decide on their future
- assistance with readjustment.

*For the employer*

- time to assess the individual's abilities and opportunities available
- retention of the employee's experience
- saving on early retirement payments
- positive public relations.

**RETENTION IN AN EMPLOYEE'S OWN JOB** Every effort should be made to retain a disabled employee in her own job through making reasonable adjustments before other alternatives are examined. Consideration should be given to:

- reviewing the needs of the post. Simply resetting priorities or removing tasks altogether may overcome some obstacles; looking at the

individual's abilities may also indicate how tasks should be prioritised or allocated within a team; consideration should be given to how flexible other staff could be in accommodating a disabled colleague to ensure best use of available skills

- provision of equipment and adaptations necessary to enable an employee to carry out his or her duties; appropriate training should also be considered
- the place of work, is it necessary for the employee to be at this particular site or would a move resolve any problems?
- flexible working/home working, starting later and finishing later may help an employee; working at home may be beneficial
- arranging job share or part-time working may assist, even for a limited period (involve trade union in negotiations) without detriment.

During time of change, productivity may suffer and this should be taken into consideration. Phased returns are useful even after short periods of absence. During this period the employee will have the option of requesting an assessment. Such assessment should be carried out by a specialist organisation. Assessments can offer the opportunity to see if an employee can do an identified job with advice on any necessary changes. The return to work of an assessed employee may affect sickness entitlement. This should be checked with the human resources/personnel department.

**RETENTION IN ANOTHER JOB** If redeployment is necessary, the employee should be viewed as a priority. No redeployment should commence without all parties being satisfied that all adaptations have been made to allow her to be effective in her work.

Negative attitudes towards disability can hinder voluntary redeployment. Lack of understanding and fear could mean that the new department may find excuses as to why a redeployed employee should not be accepted. This may mean that the newly disabled employee will have all the negative images about themselves they may be experiencing confirmed by rejection. The new department may

call on the advice of the disability or equality officer, who may also provide any assistance required with disability awareness. The employee's salary should be protected on the original grade for at least 12 months.

An institution may have a policy that people should only be employed on the basis of merit, but this policy should be subject to the duty to make reasonable adjustments. Redeployment may have to be to a job of a higher grade if no suitable vacancies at the same grade exist. (The legal requirements in this situation are discussed more fully in the context of the case *Archibald v Fife Council 2004*.)

**TRAINING** This may be required to make the employee more effective in her own job or the new post. It is vital that training is supplied if new equipment is provided. Also appropriate training may be required for management and staff to counter negative attitudes and images of disability, which result in discrimination.

Such training should preferably be delivered by disabled people and/or disabled people involved in the planning of such events. Consideration will need to be given to appropriate communications and support for people with hearing impairments and for accessible materials for those with visual impairments.

**EQUIPMENT AND ADAPTATIONS** Management need to note that equipment must be insured and secure. It is not obtained for use by the department but is for individual use. There may be rental costs and maintenance involved. Details about the supply of equipment should be on file and the equipment returned if the disabled person leaves employment.

It is essential that equipment is regularly checked and maintained, so that it is in full working order at all times.

### **Health and safety checklist**

The following checklist is not exhaustive and it is important that management undertake appropriate consultations when planning new buildings, extensions or modifications to existing buildings. Any improvements made will benefit all staff.

**ACCESS** Disabled people may often experience barriers from obstacles caused by poor workplace design.

#### **Outside and around buildings**

- ▶ Are pedestrian routes kept free of obstruction?
- ▶ Are pathways wide enough for wheelchairs?
- ▶ Are pathway surfaces slip resistant?
- ▶ Are shallow ramps provided at changes in level?
- ▶ Are steps and stairways provided with handrails?
- ▶ Are bollards, bins, signposts and other items of street furniture sited so that they are not hazardous?
- ▶ Are all paths and buildings clearly signed?
- ▶ Are there seats and benches for people to take rests?

#### **Parking and moving to buildings**

- ▶ Is a clearly marked parking space available for disabled drivers/passengers as near as possible to the entrance?
- ▶ Are parking bays wide enough to allow access for wheelchairs (the recommended width is 3m)?
- ▶ Is the route from the parking bay to the entrance level or ramped?
- ▶ Approaches to buildings should have dropped kerbs, with both the 'drop' and an area around it textured to alert visually impaired people.

#### **Entrance to buildings**

- ▶ Is the entrance easily identified and under cover?
- ▶ Is the access to the building level or ramped? (a ramp gradient of 1:20 is preferred, but not more than 1:12 if the ramp is less than 5m and not more than 1:15 if the ramp is between 5m and 10m; width should be no less than 1200mm, and there should be a handrail on both sides)
- ▶ Is any door easy to open and wide enough to get a wheelchair through, and can the door be kept open to let people in?

q Entrance doors should have a minimum clear opening width of 800mm; automatic sliding doors with a contact mat are preferable; glass doors should

be clearly marked so that they can be seen; if revolving doors are fitted an ordinary door must be fitted beside them; a lobby between two doors should be large enough to allow a wheelchair user with an assistant to fully clear one door before using the next.

### **Inside the building**

- Reception areas should have staff to assist or have comprehensive signs; if registration or signing in is required, the desk should be of an appropriate height for wheelchair users
- are floor surfaces slip resistant (floor surfaces and coverings are better for visually impaired people if they are plain, deep pile makes operating a wheelchair extremely difficult)?
- are ramps provided at changes of level?
- are steps and stairways provided with handrails?
- are there handrails along the corridors?
- steps should be edged in yellow and white, top and bottom landings should have a textured surface for identification by visually impaired people
- internal doors should have a minimum clear opening of 750mm, a glazed viewing panel and a kick plate; level handles are preferred to knobs
- if the building is multi-storey is there at least one lift with controls, which can be worked by a person sitting in a wheelchair?
- does the lift have Braille controls?
- does it serve all main circulation areas?
- is it large enough for a wheelchair and one other person? Lifts should have a minimum depth of 1400mm and width of 1100mm; doors should have a clear opening of 800mm, stay open for a minimum of five seconds and reopen if they meet with an obstruction on closing; control buttons should be identifiable to a person with a visual impairment and be between 1000mm and 1200mm from the floor
- are amenities such as toilets and telephones clearly signposted and readily accessible?
- public telephones should have hoods to assist people with hearing impairments; at least one

should be positioned for easy use by wheelchair users.

- minimise use of glass and mirrors

### **Visual, audible and tactile aids**

- are signposts legible and well illuminated?
- are names and numerals on doors at eye level? (all signs should be in large letters or numerals which contrast clearly with the background)
- are audible signals (like alarms) linked to visual signals (eg flashing lights)?
- is there an induction loop system to help hearing impaired staff in meetings?
- are light switches and other environmental controls within the reach of people in wheelchairs?
- are colour contrasts used to distinguish routes or parts of buildings?
- are changes in floor texture used to warn visually impaired people of hazardous areas?

**GENERAL FACILITIES** Any other facilities, including toilets, rest rooms, staff rooms, canteens and the like should be equally accessible for disabled people. The same checklists could be used to inspect these facilities.

In addition, bear in mind the following points:

### **Canteens**

- Is there provision for special dietary needs?
- Are there no smoking areas for people with heart and chest complaints?
- Are floor non-slip and gangways wide enough?

### **Toilets**

- Is there at least one toilet for disabled people, which complies with the standards in BS 5801?
- Is there enough room to turn a wheelchair? Doors should swing out of the compartment or be sliding; vertical and horizontal support rails should be provided with sufficient space to allow transfer either frontally or horizontally with the door shut
- Does the washbasin have adapted taps? Level taps are preferable

- ▷ Is the chain long enough?
- ▷ Are the hand towels or dryers within easy reach of wheelchair users?
- ▷ An emergency alarm should be sited inside the compartment and the door should be openable from outside
- ▷ Are there adapted toilets for both sexes?

### **Safe escape**

- ▷ Fire drills used to test the effectiveness of escape procedures for disabled people
- ▷ There should already be regular fire drills and individual members of staff should be designated to assist employees with visual impairments and those who cannot use stairs
- ▷ All employees should be familiar with escape routes and be trained in safety procedures; carrying slings or seats (evacuation chairs) can be used by trained staff to assist disabled people downstairs in an emergency. Enough staff need to be trained so that in the event of staff absence, disabled people who require human assistance can evacuate safely
- ▷ Visual alarms should be installed especially if a person with a hearing impairment works alone; visual alarms should also be placed in lavatories
- ▷ Escape routes should be designed with the slower movement of some people taken into account; they should be clearly signposted to benefit all employees
- ▷ Fire and smoke stop doors may be fitted with 'stay-open' devices, which would aid the movement of people during normal conditions; these devices will automatically shut the doors when the fire alarm operates (automatic closures of doors should be taken into account when escape procedures are being worked out).

Multi-storey buildings can present considerable escape problems. As well as escape by protected lifts, other measures include:

- ▷ disabled people moving to a fire-protected area of greater safety and on the same level until they can be assisted
- ▷ link bridges to other buildings on the same level

allowing disabled people to move to a safe area

- ▷ lobbies of half-hour resistance linked to stairways from which disabled people could be assisted to escape if necessary.

### **Office facilities**

In general most modern office facilities are designed so that they can be used by disabled workers. For example, technology in automatic screen readers has advanced to the point where many readers can easily convert the internet to sound. Speech recognition software has improved markedly in recent years, and can be of use to lecturers with hearing impairments or for people with impairments such as repetitive strain injuries.

The problems tend to come not so much from the technology as bad office management. For example, most common email packages have a built-in facility to enable messages to be read in a larger size than the one in which they were sent. Emails should therefore be sent in the default size or font. It may be patronising to send emails in much larger sizes; and if the member with a visual impairment receives emails in 10 different sizes, that could make their life harder.

As well as email programmes, word-processing software and even basic screen display can usually be reset. But if the employer practices hot-desking, then the disabled member may be placed at a disadvantage, if they constantly are having to change the display settings.

It is best practice to assign any member who requires assistive technology with a visual impairment a computer of their own. Similar points apply to chair, phones and any other customised equipment.

Finally, none of the technology can work on its own: all of the devices used to make reasonable adjustments will require occasional support from specialists in information technology. Many may also require continuous support from designated colleagues. Don't just argue for a technological fix, but for people to support the disabled member in the new situation.

## Consultation

The central theme of this document is that equality cannot be achieved without consultation. If employers are to treat their staff fairly, they must find what their needs are. To do that, they must consult – with unions and with disabled members' groups. In all but the smallest UCU branches and associations, it is possible for UCU members to take a lead in establishing disabled staff groups, and encouraging them to put demands on the employer.

At the time of writing (August 2006), the further and higher education sectors are on the cusp of a particular challenge, with the DDA coming into full effect in December 2006.

As we have seen, employers are faced with a new duty to consult. Whereas before this was a moral imperative, now it has become a legal duty.

In higher education, the Equality Challenge Unit has issued valuable guidance encouraging employers to establish working parties to draw up a Disability Equality Scheme. They give examples of the work that such groups should be doing in the run-up to the implementation of the law:

Initial meetings of any disability equality scheme working group may wish to inform their discussions and debate in a number of ways:

- by prioritising, in cooperation with disabled stakeholders, those functions which are likely to have most relevance for disabled people
- by reflecting on the extent to which a declaration of disability by a member of staff in any part of the institution or by people otherwise engaged with the institution would be responded to positively and in a constructive and informed way; if there is uncertainty about whether or not the response would be supportive and informed, consideration would need to be given to what this might mean in relation to forward planning on the public sector duty
- by analysing existing baseline data on performance in those areas of function and activity, which may require priority action and by considering ways in which existing data collection could be enhanced

- by discussing with their disabled stakeholders the strengths and weaknesses of existing data collection activity and the kinds of additional data it might be helpful to start collecting in order to inform future planning. Disability Equality Schemes have to be based on data that is fit for purpose or the final scheme will be meaningless
- other areas of activity, including some or all of the following: recruitment and retention of disabled staff; admission, selection, retention and performance of disabled students; service evaluation returns from disabled staff, students and public service users; staff appraisals; internal and external audits of key policies and strategic documents; MIS data access audits etc
- some large organisations have tackled the question of engaging with disabled stakeholders in their process of needs analysis through carrying out a comprehensive survey; institutions have faculty staff who could help them in the design and delivery of such surveys, if that is considered a helpful way to identify areas of strength and weakness (source: Equality Challenge Unit, 2004b).

The duties apply to both further and higher education; the same processes of in-depth discussion should be taking place within UCU branches and associations too.

### The 'Two Ticks' symbol

Employers can use the government's 'Two Ticks' symbol on publicity material, letterheads and recruitment material to indicate they support equality for disabled people. The disability employment adviser at the local jobcentre monitors the scheme. The disability employment advisor will receive documents from the employer each year explaining what actions they have taken to enforce equal treatment in their workplace. Employers must make a commitment:

- to interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities
- to ensure there is a mechanism in place to discuss, at any time, but at least once a year,

with disabled employees what they can do to make sure they can develop and use their abilities; the aim of this commitment is to ensure that disabled employees are getting the same opportunities as others to develop and progress within their job

- to make every effort when employees become disabled to make sure they stay in employment; the aim of this commitment is to make sure that employees know that, should they become disabled, they will have your support to enable them to continue in their current job or an alternative one (retaining an employee who has become disabled means keeping their valuable skills and experience and saves on the cost of recruiting a replacement)
- to take action to ensure that all employees develop the appropriate level of disability awareness needed to make their commitments work
- each year, to review the five commitments and what has been achieved, to plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans.

Branch or association officers need to ensure that if their institution adopts this scheme it is backed up by good practice.

### **Support for employers**

Branches/local associations should ensure that their management are familiar with the Access to Work scheme.

In the period up to 1993 the Employment Service built up special schemes of assistance for disabled people and their employers. In 1993 these were merged into Access to Work, which funds a variety of support for disabled people to overcome barriers to obtaining or retaining employment.

Access to Work can be used in a variety of ways, for example, it can pay for:

- a communicator for employees who have a hearing impairment (this includes having a communicator at a job interview)
- a part-time reader or assistant at work for

people who have a visual impairment or learning difficulty

- a support worker for someone who needs practical help, either at work or getting to work
- adaptations to equipment or new equipment to meet individual needs
- alterations to premises or working environment
- adaptations to a car or help towards taxi fares or other transport costs if a disabled employee cannot use public transport to get to work.

Access to Work makes grants towards costs. If a college or university employs an unemployed person or someone they have recruited less than six weeks ago, the grant is up to 100% of the costs approved by the Access to Work adviser.

Access to Work pays up to 100% of the approved costs of help with:

- support workers and fares to work, and
- communicator support at interview.

Access to Work also pays travel costs incurred due to a disabled person's lack of access to public transport.

For people working for an employer, and who have been in the job for six weeks or more and need specific equipment or adaptations to premises, Access to Work pays a proportion of the costs of support, as follows:

<i>Approved cost</i>	<i>Maximum Access to Work contribution</i>
Less than £300	Nil
Between £300 and £10,000	80% of the cost over £300
Over £10,000	80% of the cost between £300–10,000, and 100% of the costs over £10,000

Further information can be obtained from your local disability employment adviser.

It is of major concern that the government is currently planning to remove funding for Access to Work from the public sector. UCU will be campaigning on this issue.

## Checklist for meetings

Most branch and local association meetings are held on college or university premises, and it may be difficult to find an accessible venue. But the DDA has been in force for several years, and September 2005 sees the introduction of new duties in education which mean that every institution will have to make reasonable adjustments to ensure disabled people can physically access their education, so most will have at least some rooms which are designed to be DDA-compliant.

Wherever the branch or association meets, some improvements may be possible.

### Introduction

- find out how many UCU members have disabilities
- consult members as to their needs
- aim for full participation.

### Venue

- consult local authorities or access groups to identify venues
- ensure the venue is easy to get to by car or public transport
- check availability of car parking spaces for disabled people
- are the rooms in use all on one level?
- how far are they from reception, other rooms, refreshment, toilets?
- is there an accessible lift to all floors?
- are there toilets for disabled people?
- do stairs and ramps have handrails?
- is reception informed to provide assistance if needed?
- consider confidence seating - are seats moveable?
- is there a raised platform at the front?
- is there a ramp to the platform with a microphone?

- is there an induction loop system in the main room, in other rooms, for people with hearing impairments?
- is a microphone available in the main room, in other rooms?
- will refreshments be served in the main room or elsewhere?
- will there be plenty of room for wheelchairs to manoeuvre?

Unless the venue has a reputation for excellence, it will normally be necessary to visit the venue and check for yourself. One other option is to send a qualified access officer to check. Should there be any potential access problems, speak to your disabled members and ask their advice.

### Communications

- ensure established procedures do not discriminate
- plan well in advance, as British sign language interpretation and Braille documentation can take time to arrange
- in smaller meetings, seat members in a circle or horseshoe rather than rows.

### MEMBERS WITH HEARING IMPAIRMENTS

Do members with hearing impairments require an interpreter? Not all people with hearing impairments have the same needs; it depends on the nature of their impairment and what methods of communication they use. It is very unusual to meet a person who cannot hear any sounds. Some people communicate through speech and lip reading or through sign language or by some combination of all these methods. When meeting a member with a hearing impairment for the first time, ask how they communicate with other people and what you can do to make communication easier for both of you. When using an interpreter, book them well in advance of the event. In a one-to-one situation, the interpreter should sit or stand to the side to form a triangle. In a group, arrange the

seating in a circle or horseshoe so that everyone can be seen. The interpreter can then point to the person speaking.

Adequate lighting and a natural background behind the interpreter are important; these enable the member with the hearing impairment to see the interpreter's facial expressions and lip patterns clearly. In long sessions you will need two interpreters. Try to provide breaks as interpreting can be tiring. In discussion, ensure that only one person speaks at a time. The interpreter can only accommodate one speaker at a time.

An alternative to interpreters is to employ palantypists (speech-to-text reporters), who send text to be displayed on large screens. They can be useful in darker rooms or when a speaker needs to turn away from the disabled person, which makes lip-reading difficult.

When talking with others, many people use unconscious habits such as turning away before finishing speaking or covering the mouth when talking. These exclude people with hearing impairments from fully understanding what is going on. When communicating with someone who has a hearing impairment:

- ▷ try not to cover your mouth or rest your chin on your hand when you speak and don't turn your head away
- ▷ speak loudly and clearly but don't shout. This can distort the facial features and make it more difficult for you to be understood. It can also sound distorted to hearing aid users.
- ▷ if speaking at a branch or association meeting with an interpreter present, there are other rules of good etiquette: two people should not speak simultaneously, new speakers should introduce themselves, speakers should try to not speak too fast and to announce clearly.

**MEMBERS WITH VISUAL IMPAIRMENTS** Do not assume that all visually impaired people can read

Braille – there are many other alternative formats which may be appropriate. Try to ensure that all papers for the meeting can be made available in advance of the meeting in large print, Braille, or on tape for members with visual impairments. You may need to provide a personal reader if late papers are to be tabled.

Are documents for meetings printed on coloured paper or reduced on a photocopier? Both habits can present problems for partially sighted people.

When greeting a visually impaired member say who you are in case she does not recognise your voice. Address her by name or indicate by light touch who you are speaking to. Say when you are about to leave. Anyone feels foolish talking to empty space.

When guiding a visually impaired member, stand by them with your arm straight down (known as the grip arm) and fingers pointing to the ground. She will firmly hold your arm, just above the elbow. You should walk slightly in front, making it easier for the visually impaired member to understand the movement of your body. Whether you are going up or down stairs, you should be one step ahead, so that your partner does not take imaginary steps into space. Always say whether stairs are 'up' or 'down'. Never back a member onto a seat. Always approach the chair centrally and place your grip arm on the back of the chair. Your partner can now move into the chair feeling the side of it with the calf of her leg, and, if necessary, checking the seat with a hand. Always mention if there is a table in front of the chair.

**WHEELCHAIR USERS** The major barriers faced by people who use wheelchairs relate to physical access. Yet for some reason many people seem to assume that wheelchair users have problems with communication. When communicating with people in wheelchairs, talk to them, rather than anyone escorting them. When talking for more than a few moments, try to put yourself at the eye level of the person in the wheelchair in order to avoid them

getting a stiff neck. Don't lean on a person's wheelchair – the chair is part of the body space of the person who uses it.

### **Health and safety**

You should ensure all facilities comply with health and safety specifications, and that provisions are made for the evacuation of members with disabilities in an emergency, including briefing staff on procedures.

### **Concealed impairments**

We have already given examples of hidden impairments, for example dyslexia, dexterity impairments, epilepsy, asthma, sickle cell, heart conditions, mental impairments, cancer and HIV. Another common categories of impairment are those that take the form of allergies to household substances, such as fibres, hairs or chemicals.

Where branches and associations have members with such concealed impairments the most important thing is to discuss them fully with the member themselves. The branch or local association may need to consider, what the impairment is, how it affects that person, and what helps. Discussions should be sensitive and thorough. Branches and associations should do everything they can to ensure that the member with a concealed impairment has full and equal access to the work of the branch.

### **Accessible documentation**

Many disabled members may be excluded from UCU's work because written information is not available in accessible formats. Making documentation accessible will ensure that UCU is representative of all members, will allow the full participation of disabled members and will encourage them to take up union positions. Failure to provide accessible information will mean failing to speak for disabled members. Alternative formats that can assist disabled members include:

- clear print
- large print
- Braille
- computer disk

- audio tape
- video tape (BSL interpreted)
- easy read.

UCU should be able to provide documents in accessible formats for disabled members upon request, at no cost to the member and at the same time as documentation is received by other members. Some meetings may need to be arranged at short notice but every attempt should be made to provide accessible information. The DDA requires unions to make reasonable adjustments to ensure that disabled members can participate, and this will include providing written information in formats they can use.

When producing accessible documents remember to:

- ask members about their needs
- plan ahead since transcribing documents may take time
- identify individuals or organisations who can help
- budget for costs involved
- listen to criticism to improve the service

### **Identifying members' needs**

The best way to find out what members need is to ask them. A circular to branch or local association members will identify the formats in which papers should be produced. For a one-off meeting, training event or conference, the registration form should ask participants about access requirements, such as whether they need parking, a special diet, BSL interpretation, large type, documents on computer disk, or Braille documentation.

Branches and local associations undertaking a survey of members' access needs should not just list a series of impairments and ask disabled members to place themselves in a category – such information would not reveal what a members' access needs are and could be seen as patronising. Instead the survey could ask whether members experience barriers in reading the branch or local association newsletters, agendas etc and give choices of accessible formats.

## **Print**

The RNIB has recommended the following guidelines to make ordinary print as accessible as possible:

- ▶ make sure there is a good contrast between the type and the background: black type on white or pale yellow paper gives the best contrast
- ▶ if it is necessary to print in a colour other than black the ink should be as dark as possible
- ▶ pastel-coloured inks do not give a good contrast (yellow is the worst)
- ▶ printing on dark-coloured paper gives a poor contrast
- ▶ photocopies can be accessible if the ink has not faded
- ▶ do not print text across an illustration
- ▶ use a large type size – 12 point for general readers, or 18 point for partially-sighted members if they have not requested any particular size
- ▶ reversed type is acceptable if the type is large and heavy enough – otherwise letters can fill in with ink and become hard to read
- ▶ the weight and thickness of the type is important: avoid light type and remember that most people with visual impairments would prefer medium or bold
- ▶ use a common font – unusual typefaces may be hard to read
- ▶ capital letters are harder to read than lower case – one or two words in capitals will not be a problem, but continuous text should not be printed in capitals
- ▶ avoid thin paper as the type can show through
- ▶ avoid glossy paper as the glare may make it hard to read
- ▶ do not cram as many words as possible onto a page, instead put a line of space between paragraphs and avoid splitting words at the end of lines
- ▶ use left justified margins.

Some people use scanners to produce Braille documents. These scanners can be confused by

text which uses more than one font, or blocks of continuous text in capitals or bold.

## **Large print**

More people with visual impairments use large print than tape or Braille. Some members may use large print for short circulars but prefer longer documents on tape or disk.

Most union officers will have access to resources to produce large print documents. All word processor packages now have facilities for producing large print. Use 16 or 18 size type for members who request large print but do not specify the size required.

Producing a large print version of a document by using a photocopier to enlarge a document from A4 to A3 should only be used as a last resort. Photocopiers lose contrast and large A3 documents may be difficult to manage.

One problem with large print documents is that there will be a different number of pages. This can make it difficult if in meetings participants refer to sections on a certain page – it can be confusing for people using a different format.

To minimize this problem, divide the document into clearly labelled sections, and review the pagination after large page has been set.

At a meeting where documents have been transcribed for some members, the chair should ask all participants to refer to paragraphs and sections rather than pages and explain why.

## **Audio tape**

More people with visual impairments use large print or tape than Braille. Most visually impaired people will have tape recorders and if only one version of a document is to be produced, tape would perhaps be the best format as it can be used by the widest range of people. Taping a long document can be tiring and not everyone has a clear and interesting reading voice. In general, only one copy of a tape can be produced at a time – reading several pages may not be best use of the union's time, and it may be necessary to use some outside organisation.

Union officers producing tapes should use the best equipment they can.

Ideally, long items should be recorded on digital rather than analogue recorders: these allow recordings to be 'bookmarked' into separate sections. If cassettes are used, they should be clean with any previous recording erased. If the recording is made in an office, ensure that there are no phones, copiers or conversations in the background.

It is useful to start the tape with an introduction, giving name, branch or association and indicating how many documents are on the tape. Since the beginning of the tape is more accessible it is worth positioning an item there which will be often referred to, rather than at the middle of one side. Users need to be able to fast forward to the item they want. Ways to make this easier include recording on digital rather than analogue (and recording different sections on different tracks), or by leaving a ten second pause between items. At the end of the document the reader should end that the recording is now ending.

## **Braille**

Although the number of people who use Braille is comparatively small, it is important to offer Braille transcriptions, as Braille readers normally prefer

Braille to tape. It is possible to buy a Braille embosser which links to a computer and is as simple to operate as an ordinary printer. But embossers are not cheap and may need regular servicing. Also where an embosser is used by someone who does not read Braille, mistakes may occur and someone may be sent a useless document. Visually impaired members may have their own embosser and can be sent documents on disk or by email.

Alternatively outside agencies can be used. Some public libraries offer a Braille transcription service. BBC Radio 4 published an annual *In Touch* guide to services for people with visual impairments which includes a list of national Braille services.

Braille text can be sent by post to visually impaired people free of charge, provided it is marked as 'Articles for the Blind'. Braille documents should be sent either rolled or flat in a box to prevent the dots being flattened. The RNIB sells pre-printed 'Articles for the Blind' postage labels.

## **Other formats**

Moon is an alphabet printed as raised shapes, based on Gothic script. It is simpler than Braille and those who become visually impaired in later life may find it easier to learn. Fewer people use Moon than Braille. RNIB often produces documents in Moon.

# GLOSSARY

**Concealed impairment** Impairments such as epilepsy, asthma, sickle cell, heart condition, cancer or HIV.

**DDA: Disability Discrimination Act** Refers to 1995 or 2005 acts.

**Direct discrimination** Treating one person less favourably than another on the grounds of disability, or gender or race or sexual orientation or religion or belief. Direct discrimination on any of these grounds is automatically unlawful.

**DRC** Disability Rights Commission

**EAT** Employment Appeals Tribunal

**Employment Tribunals** Judicial bodies established to resolve disputes over employment rights.

**Harassment** Unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

**Indirect discrimination** Applying a provision, criterion or practice which disadvantages disabled people (or which disadvantages any group of people on grounds of age, gender, race, religion or sexual orientation) and which cannot be justified as a proportionate means of achieving a legitimate aim.

**Learning difficulties** People with a learning disability find it harder to learn and understand than other people.

**Mental impairments** These can include depression, schizophrenia, anxiety, obsessions, phobias, as well as alcohol and drug addiction.

**Physical impairment** An impairment affecting mobility, leading to wheelchair use, or difficulties in walking or using upper limbs, or a dexterity impairment, so that a limb can be used but with difficulty.

**Reasonable adjustments** An employer has a duty to make reasonable adjustments where arrangements or physical premises place the disabled person at a substantial disadvantage in comparison with persons who are not disabled.

**SENDA** Special Educational Needs and Disability Act 2001

**Sensory impairment** An impairment such as a visual or hearing impairment.

**Victimisation** Treating people less favourably because they have made a complaint or intend to make a complaint about discrimination or harassment or have given evidence or intend to give evidence relating to a complaint about discrimination or harassment.

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# LINKS

Allergy UK

[www.allergyuk.org](http://www.allergyuk.org)

Asian Disabled People Alliance

[www.apda.org.uk](http://www.apda.org.uk)

British Deaf Association

[www.bda.org.uk](http://www.bda.org.uk)

Citizens' Advice Bureau

[www.nacab.org.uk](http://www.nacab.org.uk)

Civil Service Diversity

[www.diversity-whatworks.gov.uk](http://www.diversity-whatworks.gov.uk)

Disability Alliance

[www.disabilityalliance.org](http://www.disabilityalliance.org)

Disability Net

[www.disabilitynet.co.uk](http://www.disabilitynet.co.uk)

Disability Rights Commission

[www.drc-gb.org](http://www.drc-gb.org)

Disabled Living Foundation

[www.dlf.org.uk](http://www.dlf.org.uk)

Equal Opportunities Commission

[www.eoc.org.uk](http://www.eoc.org.uk)

Equality Challenge Unit

[www.ecu.ac.uk](http://www.ecu.ac.uk)

Federation of Deaf People

[www.fdp.org.uk](http://www.fdp.org.uk)

MENCAP

[www.mencap.org.uk](http://www.mencap.org.uk)

MIND

[www.mind.org.uk](http://www.mind.org.uk)

National Disability Team (in Higher Education)

[www.natdisteam.ac.uk](http://www.natdisteam.ac.uk)

Parkinson's Disease Society

[www.parkinsons.org.uk](http://www.parkinsons.org.uk)

RADAR

[www.radar.org.uk](http://www.radar.org.uk)

Royal National Institute for Deaf People (RNID)

[www.rnid.org.uk](http://www.rnid.org.uk)

Royal National Institute for the Blind (RNIB)

[www.rnib.org.uk](http://www.rnib.org.uk)

SANE

[www.sane.org.uk](http://www.sane.org.uk)

SKILL

[www.skill.org.uk](http://www.skill.org.uk)

Terence Higgins Trust

[www.tht.org.uk](http://www.tht.org.uk)

Training for DDA

[www.gwresources.co.uk/page33.html](http://www.gwresources.co.uk/page33.html)

Disability Discrimination Act (1995)

[www.hmso.gov.uk/acts/acts1995/1995050.htm](http://www.hmso.gov.uk/acts/acts1995/1995050.htm)

Disability Discrimination Act (2005)

[www.hmso.gov.uk/acts/acts2005/20050013.htm](http://www.hmso.gov.uk/acts/acts2005/20050013.htm)

## Model policy on disability equality in employment

### Joint agreement on guidance for disability equality in employment in further education colleges

#### 1 INTRODUCTION

- 1.1 This guidance has been developed jointly to equip Colleges to meet their obligations under the Disability Discrimination Act (DDA) 1995, The European Framework Directive 2000, the Disability Discrimination Act 2005, and other relevant legislation.
- 1.2 The college undertakes as a minimum to recognise as disabled all those who fall within the definition given in the DDA, that is, 'A person has a disability for the purposes of this act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities.'
- 1.3 This guidance is based on the knowledge that disabled people are almost twice as likely as non-disabled people to be unemployed, that disabled workers are less likely to work full-time, and that one in eight of the working-age population is disabled (Labour Force Survey, 2001).
- 1.4 The DDA 2005 has extended the positive duty on employers to promote equality and good relations between members of different groups to cover disability as well as race. This document is intended to support Colleges towards achieving that end.

#### 2 OUR COMMITMENT

- 2.1 The college celebrates and values the diversity brought to its workforce by individuals. It believes that the college will benefit from employing both disabled and non-disabled people at all levels of responsibility, and across all areas of work. This will also provide role models for a variety of students in whatever area of the curriculum they are interested in. The college is committed to equality of treatment for all employees regardless of whether they have a physical or mental impairment. This will apply to the operation and implementation of all its employment policies. The college will treat all employees with respect and dignity, and seek to provide a positive working environment free from disability discrimination, harassment or victimisation.
- 2.2 The college will seek not only to eliminate disability discrimination, but also to create a working environment based on good relations between disabled people and non-disabled people. To this end, the college undertakes to provide diverse images in any material which it produces, including positive images of people with a range of disabilities. The aim is to create a positive inclusive ethos with a shared commitment to challenging and preventing stereotyping, prejudice and disability discrimination, to respecting diversity and difference, and to encouraging good relations between disabled people and non-disabled people.\*

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\* A combination of stereotyping, prejudice and discrimination is usually described by an umbrella term, such as racism, sexism and heterosexism. The term 'ableism' is defined as stereotyping and negative attitudes towards people based on a physical or mental disability resulting in prejudice and/or discrimination. Although the term is in use here, it is still uncommon, so this agreement does not use it. All references to prejudice and discrimination through out the document are to be taken to mean the whole gamut of things covered by the expression 'ableism' as defined above.

2.3 The college will work towards the elimination of prejudice and discrimination, whether overt or covert, and will seek to ensure that all staff have equal access to the full range of college facilities.

2.4 Most of the detail of this policy relates to those staff who have declared a disability. However, the college will seek to fulfil its duty of care to those staff who do not declare a disability, but where the college as employer could reasonably have been expected to know of the existence of a disability.

2.5 Where information is divulged in confidence, every attempt will be made to respect this.

2.6 The college will accept all recommendations made after an assessment carried out under the Access to Work scheme, and will make all the required contributions towards the cost of providing the recommended reasonable adjustments.

### 3 OUR LEGAL DUTIES

The college undertakes to fulfil all the legal duties put upon it by:

3.1 The DDA 1995 and the associated *Guidance and Codes of Practice*, especially the code of practice for the elimination of discrimination in the field of employment against disabled persons or persons who have had a disability. This means there will be no discrimination against staff on grounds of disability in access to employment, training, working conditions, terms of employment, treatment at work, promotion or dismissal. The college undertakes to fulfil its duty to make reasonable adjustments to enable staff to do their work, and not to treat staff with a disability less favourably than those without (HMSO, 1995).

3.2 The wide range of other legislative provision which relates to disability discrimination, including: the Employment Rights Act 1996, the Human Rights Act 1998, the Pensions Act 1995, the Protection from Harassment Act 1997 and The Health and Safety at Work Act 1974.

3.3 The DDA 2005. In line with the DDA 2005, the

college agrees to draw up annual disability equality schemes to monitor progress towards achieving equality between disabled and non-disabled people. The college agrees to monitor the statistics of its staff and student population, by disability, as well as by the other equality areas. The college agrees to assess the impact of new policies on disabled and non-disabled people, and to subject its annual disability equality schemes to a process of impact assessment. In line with the DDA, the college also agrees that all processes of impact assessment will actively involve disabled people: the detailed content of these duties is set out in more detail in various sections below.

### 4 RECRUITMENT AND SELECTION

4.1 The college will not discriminate on grounds of disability in the way it recruits and selects staff.

4.2 The college will ensure that:

4.2.1 Job descriptions will be drafted to ensure they do not exclude disabled people.

4.2.2 Recruitment materials will be fully accessible, and made available in a range of alternative formats.

4.2.3 Interviews will be fully accessible, and reasonable adjustments will be made to allow candidates with a disability to attend the interview without being placed at a disadvantage.

4.2.4 Impairments will not be used to excuse the non-recruitment of candidates who meet the minimum criteria.

4.2.5 Where candidates have particular needs, consideration will be given to the adaptations needed to enable the candidate to do the job, assuming they meet the essential criteria in the person specification.

4.3 The college undertakes that all applicants for a vacant post who indicate on their application form that they have a disability, and who meet the person specification, shall be shortlisted. The college undertakes that every effort will be made to redress any under-representation of

disabled people by positive action (eg advertising in the disability press).

4.4 The college undertakes that all advertisements will include a commitment to equality, including the interview guarantee to candidates with a disability who meet the essential criteria in the person specification.

## 5 APPOINTMENT

5.1 If a candidate is considered suitable for appointment the college will follow the advice given in the Employment Code of Practice under the DDA to enable a new appointee to carry out the job, providing some reasonable adjustments are made.

The college will pay due regard to the reasonable adjustments set out in 6[3] of the DDA, by considering, for example:

- adjusting the premises
- allocating some of the duties to another person
- altering working hours
- allowing time off for treatment
- making college materials available in the preferred format
- Acquiring or modifying equipment

5.2 The college will discuss with the new appointee and relevant experts what reasonable adjustments are needed. If there is not sufficient expertise available in the college to deal with a particular reasonable adjustment, the college will seek the advice of the disability employment adviser under the Access to Work scheme.

5.3. Where adaptations are to be introduced that affect other employees, notification will be given to those employees and their union representatives, and the most suitable arrangement for all parties will be reached.

## 6. CAREER DEVELOPMENT

6.1 All employees shall have equal rights to training, promotion and other aspects of career development. Special employment needs will not be used to justify a failure to promote or train any employee.

6.2 The college undertakes that all the training and

staff development that it provides will be fully accessible to all, including venues, materials and provision of support staff if required.

6.3 Line managers of staff who have declared a disability will ask such staff at least once a year if their needs have changed, and if any steps need to be taken to ensure that their development needs are met.

## 7 RETENTION

7.1 The college undertakes to make every effort to ensure that an employee who becomes disabled and who wishes to remain in employment is enabled to do so.

7.2 An employee who becomes disabled and declares this to the college should have the right to a meeting with their line manager, their union representative, and a member of personnel staff. At this meeting, the needs of the employee should be discussed and agreed. Medical advice might also be sought about the employee's needs, which might include a period of paid disability leave to adjust to changed circumstances (the amount of time to be agreed at the meeting) adaptations to the work environment, job redesign or training.

7.3 An employee who requests a transfer to part-time work, or lighter duties, on the grounds of disability, whether on a short-term or permanent basis, should have their request sympathetically considered.

7.4 If an employee develops an impairment which makes it impossible for them to do their existing job, but they wish to be redeployed to a job they can do, the college undertakes to make every effort to redeploy them, including providing training where necessary.

7.5 Paid time off for medical appointments/treatment will be granted at all times. Employees who can control the timing of their appointments/treatment should consider the needs of the college.

## 8 DISMISSAL

8.1 The college will ensure that there is no disability discrimination in relation to dismissal of staff. In particular, should a redundancy

situation occur, it will ensure that disability is not a factor in the selection of those to be made redundant. For staff who have declared a disability, sick leave shall not be used as a criteria for selecting for redundancy. For more details see the redundancy handling procedure.

## 9 HARASSMENT

9.1 Disability harassment is viewed by the college as a very serious offence, which if proven may in certain circumstances lead to the dismissal of a member of staff, or, if an employee is harassed by a student, the expulsion of that student. For details of handling harassment claims, see the harassment policy.

## 10 ENSURING EQUALITY BETWEEN DISABLED PEOPLE AND NON-DISABLED PEOPLE

The college is committed to work to eliminate prejudice and discrimination in employment practices, as well as to encourage changes in individual behaviour and attitudes, and ensure equality of opportunity and treatment for disabled people and non-disabled people.

10.1 The college recognises that, despite legislative attempts to achieve equality, disabled people in society are still subject to discrimination, lack of opportunity and social injustice. They are still disproportionately unemployed, found in lower-paid employment, concentrated into a narrow range of jobs, and under-represented in management jobs in society generally.

10.2 The college will try to mitigate the effects of these social trends by taking positive action within the law to employ a proportionate number of people with disabilities and monitoring its staff profile in terms of recruitment, promotion and training.

10.3 If the result of staff monitoring shows that there is an under-representation of disabled people at any level within the college, it will review its recruitment, promotion and training practices to ensure they are free of bias, contain no barriers to disabled people and consider advertising in publications more likely to be read by people with disabilities.

10.4 The college recognises that many of the problems experienced by disabled people are due to lack of knowledge of their needs by those around them. The college undertakes to provide disability awareness training to all its staff. This will include examination of the appropriate use of language.

10.5 The college will ensure that its publications and publicity material promote positive images of disabled people in both language and illustration.

## 11 PART-TIME WORKING

The college recognises that a disproportionate number of its part-time workers are likely to be disabled people. The college therefore accepts that any unequal treatment of part-time workers is likely to have more adverse impact on disabled people than on non-disabled people. To avoid disability discrimination, the college resolves to adhere closely to the Employment of Part-Time Employees Policy.

## 12 DISABILITY EQUALITY SCHEME

12.1 In line with the DDA 2005, the college agrees to draw up annual disability equality schemes to monitor progress towards achieving equality between disabled and non-disabled people.

12.2 The process of drawing up the scheme will actively involve disabled people: in practice this will be done by the establishing of a disabled users' group, a majority of whose members will be disabled staff and students and on which relevant stakeholders including recognised staff unions and the students' union will have a seat.

12.3 The material contained in the disability equality scheme will include the monitoring data described in section 13, as well as any positive action targets, as described in section 13, and any other information the group considers relevant.

12.4 The annual disability equality scheme will be published on the internet: paper copies will also be deposited in the college library.

## 13 MONITORING AND POSITIVE ACTION

13.1 The monitoring process will be used to ensure

that disabled staff and non-disabled staff are treated equally.

13.2 To inform the setting of targets (as required by the Learning and Skills Council Equality and Diversity Impact Measures) and the measurement of progress in achieving them, the college will collect and analyse the following information about disability.

Disability profile of employees by grade/salary scale and type of work (eg management, teaching, support, childcare, buildings):

- job application and selection success rates
- type of contract (permanent, temporary agency)
- training/staff development
- staff recruitment, development and promotion
- grievances, disciplinary and capability proceedings
- satisfaction surveys and exit interviews.

13.3 The college undertakes, once the results of monitoring are available, to consider targets to reduce any disadvantage suffered by disabled employees and the targets will be published annually in the annual disability equality scheme.

## 14 IMPACT ASSESSMENT

14.1 All college policies, procedures and practices will be assessed for their impact on different groups of disabled and non-disabled staff and students: policies which are relevant to disabled staff and students include: the college budget; all other college employment policies and procedures; the location or the moving of staff or students; health and safety procedures; building and environmental practices; the provision and diversity of curriculum; library policies; canteen practices.

14.2 The duty to conduct impact assessment will be triggered in one of three ways, either: (a) as part of the annual process of producing a disability equality scheme; or (b) if the policy, procedure or practice changes: if for example, there is a to a procedure discussed in paragraph 14.1 above, then the impact of the new procedure will be subject to impact

assessment; or (c) at the request of a member of the disabled users' group.

14.3 All impact assessments will be submitted in writing to the disabled users' group.

## 15 DIVISION OF RESPONSIBILITIES

15.1 Governors are recommended to try to ensure that the membership of the corporation includes disabled people.

Governors are responsible for ensuring that:

- the college's strategic plan includes a commitment to disability equality
- equalities training features as part of the college's strategic plan
- they are aware of the corporation's statutory responsibilities in relation to disability legislation as an employer
- they receive and respond to the disability monitoring information on staff
- The college's disability statement includes reference to employment matters

15.2 Managers are responsible for ensuring that:

- the college principal/chief executive and senior management team are responsible for taking the lead in challenging discriminatory behaviour on the part of the managers, staff or learners and creating a positive, inclusive ethos
- they are aware of the college's statutory duties in relation to disability legislation
- all aspects of College policy and activity are sensitive to disability issues
- disability monitoring information is collected and analysed
- the procedures for the recruitment and promotion of staff enshrine best practice in equal opportunities
- targets are set on the recruitment and promotion of staff based upon the analysis of disability monitoring information and best practice
- the college's publicity materials present appropriate positive and non-stereotypical messages about disabled people and non-disabled people

- appropriate training and development is provided to support the appreciation and understanding of diversity

15.3 Staff are responsible for ensuring that:

- they are aware of the college's statutory duties in relation to disability legislation
- their schemes of work, lesson content and teaching resources demonstrate sensitivity to issues of cultural diversity
- they challenge prejudiced and discriminatory behaviour, whether witting or unwitting, by learners, work placement providers, outside contractors or other members of staff whenever practicable.
- they respond positively to the needs of disabled staff and students who they come in contact with in the course of their work.

## 16 PUBLICISING OUR POLICY AND PROGRESS

16.1 To the public (including learners, work placement providers and staff):

16.1.2 Our commitment to disability equality will be highlighted in our prospectus, annual report and annual financial statement

16.1.3 As well as publishing the annual disability equality scheme on the internet and depositing paper copies in the college library, the summary of the results of our monitoring information will also be included in our annual report and annual financial statements, where this does not breach individual confidentiality.

16.2 To staff:

16.2.1 All staff will receive a full copy of the policy as part of the staff handbook

16.2.2 The staff induction programme will highlight the college's commitment to disability equality, action to be taken by staff who suffer discrimination and the action to be taken against any perpetrators of such discrimination

16.2.3 (deleted).

## 17 COMPLAINTS

17.1 The college will seek to provide a supportive environment for staff who make claims of discrimination or harassment.

17.2 Acts of disability discrimination (direct or indirect), harassment, victimisation or abuse will be treated as a serious disciplinary offence.

17.3 Staff who feel they are being discriminated against on grounds of disability by other members of staff should raise the matter under the grievance/harassment procedure, which will, if the accusation is upheld, be treated as a serious disciplinary offence.

17.4 If, in the course of their work, college staff suffer disability discrimination from members of the public, the college will take appropriate action and provide appropriate support.

17.5 Any discriminatory behaviour directed against staff by students will be dealt with under the student disciplinary procedure.

## 18 REVIEW AND CONSULTATION

18.1 This policy will be reviewed on a regular basis in accordance with legislative developments and the need for good practice, by the college equality forum.

18.2 As part of the review the equality forum will seek and take into account the views of stakeholders including the consultation/negotiating arrangements within the college, and appropriate equality bodies (ie DRC).

## 19 IMPLEMENTATION

19.1 The college, working in partnership with the recognised trade unions and employee representatives, will seek to ensure that all staffing policies and procedures (eg recruitment and selection procedure) are non-discriminatory, and that monitoring, impact assessment and positive action processes are regularly reviewed and monitored.

## 20 GENERAL

20.1 This policy should not be read in isolation, but cross-referenced with all relevant college employment policies.

## 21 DEFINITION OF JOINT AGREEMENT

21.1 The agreement on this guidance is a recommendation to colleges relating to disability equality in employment issues.

## **References**

The Labour Force Survey 2001 states that the employment rate of disabled people is 48%, compared with 81% of non-disabled people. It also states that 72.1% of disabled workers work full-time, compared with 77.6% of non-disabled workers. The figure of 1 in 8 is taken from the 2001 Census.

The Code of Practice is available from: HMSO Publications Centre, PO Box 276, London, SW8 5DT

# APPENDIX 2

## Disability policy – NATFHE

NATFHE is committed to equality of treatment for all its members, including members with disabilities, and members without. The aim is not only to eliminate disability discrimination against our members, but to create within the union a positive inclusive ethos with a shared commitment to challenging and preventing stereotyping, prejudice and disability discrimination, to respecting diversity and difference, and to encouraging good relations between disabled members and non-disabled members.

NATFHE believes in the social, rather than the medical, model of disability. Therefore, our aim is to remove the barriers that might prevent members having full and equal access to our services, or from being able to participate in our activities.

In order to meet our duties under the 'Code of Practice: Trade Organisations and Qualification Bodies 2004', and with the aim of removing any barriers faced by our disabled members, NATFHE makes the following commitments.

### 1 Training

- a) NATFHE staff who are engaged in negotiations and in representing members will have access to training on disability legislation and to disability equality training.
- b) Other NATFHE staff who have contact with members will have access to disability equality training.
- c) NATFHE will ensure that the basic trade union training programme for lay representatives will include coverage of the disability legislation.
- d) Attempts will be made to lift the level of awareness of disability issues, both legal and otherwise, amongst all lay representatives, through written advice and training programmes.
- e) Training for health and safety representatives will cover the principles of risk assessment and reasonable adjustment.

## 2 Access

- a) NATFHE will ensure that all the premises which it owns or leases will be fully physically accessible.
- b) NATFHE will ensure that all national and regional communications, for example, application forms, newsletters, website, documents, are available in a range of formats.
- c) All conferences/events/meetings/socials arranged nationally or regionally will be held in fully accessible venues, and all requests for adjustments/aids (eg interpreters, induction loops) will be met.
- d) Branches will be provided with the necessary support to ensure that all communication with their members (meetings, computer-based communication, printed material) is fully accessible.
- e) All membership services benefits will be checked to ensure that they do not discriminate against disabled members.

## 3 The bargaining agenda

- a) All branches, both FE and HE, will be encouraged to adopt locally the policy for disability equality in employment agreed between the employers and the recognised unions in FE.
- b) Any positive changes to disability legislation will be used as a tool to negotiate improvements for disabled members both locally and nationally.
- c) All collective agreements, both nationally and locally, should be reviewed on a regular basis to ensure that they contain nothing which discriminates against disabled people.

## 4 Involving disabled members

- a) NATFHE will continue to have a reserved place for a disabled member on its national executive council.
- b) NATFHE will continue to have a disabled members group as part of its equality advisory

council. This group will be the main focus for consultation on how NATFHE can best serve the interests of its disabled members, for example, by improving provision of services, putting priority issues for disabled members on the bargaining agenda etc.

- c) Occasional conferences open to any members who identify themselves as disabled will continue to be held.
- d) Attempts will be made to build up the national email network for disabled activists.

### **5 Monitoring**

- a) The application form will continue to monitor for disability, asking new members what their access requirements are.
- b) Monitoring of delegates to annual conferences will continue to cover disability.
- c) All application forms for NATFHE events held nationally and regionally will monitor for disability, and ask about access requirements.

### **6 Compliance**

- a) Breaches of the anti-discrimination policy are also breaches of rules 2.3, 2.4, and 6.8 and will not be tolerated.
- b) Acts of disability discrimination by lay members will be dealt with under rule 8, and by employers under the disciplinary procedure.
- c) Where disabled members are dis-satisfied with

the standard of service provided by NATFHE, they can use the 'Complaints against NATFHE' procedure.

- d) All procedures will be reviewed every three years to ensure that they are easy for disabled members to use, and that they are designed to resolve issues effectively.

### **7 Publicity**

- a) All NATFHE staff will be made aware of the existence of this policy, and the responsibilities it places on them, and will have access to a copy of it.
- b) All branch secretaries will be made aware of the existence of this policy and the responsibilities it places on them, and will have access to a copy of it.
- c) All members and potential members of NATFHE will be informed of the existence of this policy.

### **8 Review**

- a) Records will be kept of actions arising out of the implementation of this policy.
- b) Reviews will be made every three years of the effectiveness of the reasonable adjustments made for disabled members by NATFHE, and the effectiveness and implementation of this policy.
- c) This policy will be reviewed every three years in accordance with legislative developments, and the developing understanding of good practice.

