

The Disability Equality Duty



Photographs: Joanne O'Brien

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Introduction

In 2006 UCU and UNISON were successful in obtaining DfES funding via the Centre of Excellence and Leadership to develop a project to deliver the new duties in the Disability Discrimination Act in colleges. The Disability Equality Duty gave the two unions an opportunity to build and develop their work in the further education sector. To find out more about the project please refer to the appendices.

This guidance brings together the advice and good practice that has been developed throughout the Disability Equality Duty project and in the participating five pilot colleges. It is written to aid trade union representatives to work and negotiate with college management to implement the Disability Equality Duty and to actively involve disabled people. The guidance was written with the aid of previous union publications, in particular “Enabling not Disabling” (UCU) and “UNISON Guidance on the Public Sector Equality Duties”.

UCU and UNISON both support the social model of disability which states that it is the way society organises that creates barriers to inclusion and prevents disabled people from taking an equal part in life. This model underpins all the work that we do in the area of disability equality. Throughout this guidance there is reference to “barriers” and this refers to the barriers of inclusion in the context of the social model of disability.

This project would not have been successful without the commitment and support of various organisations, colleges, activists and staff. We would like to take this opportunity to thank them. They include the Disability Rights Commission, the five pilot colleges (Isle of Wight College, Park Lane College, City College Manchester, Sutton Coldfield College and Kensington & Chelsea College) and the staff, union branches and activists at each of them. We would like to thank activists Penny Beschizza and Verena Beane for all of their hard work and volunteered time and finally four members of staff who, without their support, this project would not have been

'Knowing that the project has the backing of high profile organisations i.e. UNISON/UCU/CEL and DfES has given value and status to the work which has, in turn raised its profile for all staff in the organisation whatever their level or role. For people with a disability to feel valued and have the status they deserve has helped us to achieve the increase in declarations. Good news all round.'

Pauline Hitt- Isle of Wight College

possible: Denise Bertuchi, Kate Heasman, Seth Atkin and Athol Brown.

It is hoped that this guidance will aid the work that has been occurring on the Disability Equality Duty, take forward the issues for disabled staff and fundamentally start to change the workplaces of disabled staff. It should also be noted that all images throughout this guidance are images of actual disabled staff from further education.

Sian Davies
UCU/UNISON Disability Equality Organiser

‘Being disabled has never stopped me leading an active role at the College. I am as competent as anyone else.’

*Adele Boan,
St Helens College*



The Disability Equality Duty (DED)

Disabled people have been campaigning for civil liberties legislation for years. New laws from December 2006 placed a duty on public bodies to promote disability equality. This will affect all public bodies - from the smallest school to the largest university.

The legislation introduces general and specific duties to promote disability equality across all of the college functions. This will require colleges to be even more proactive about how they mainstream disability equality to ensure that disability equality is built into everything that they do. This means, for example, that the college will need to take account of disabled people when making decisions and developing policy.

The general duty requires that a college should have due regard to the need to:

- Promote equality of opportunity between disabled persons and other persons
- Eliminate discrimination that is unlawful under the Act
- Eliminate harassment of disabled persons that is related to their disabilities
- Promote positive attitudes towards disabled persons
- Encourage participation by disabled persons in public life
- Take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons.

In addition, certain public bodies, including all Further Education Colleges and FE funding bodies, will be covered by specific duties with a key requirement to publish a Disability Equality Scheme (DES) every three years.

The new duties are a quantum leap in legislation with an emphasis away from minimum compliance towards building a positive culture change. The DDA (1995), as amended by SENDA (2001), gave disabled students and prospective students new rights in education and placed a duty on institutions to make reasonable adjustments. The new duties require colleges to eliminate institutional discrimination and to develop a proactive approach to

making a positive change to the lives of disabled people, not just students, by promoting disability equality in all of their practices, policies and procedures.

What does a college need to cover in their first Disability Equality Scheme (DES)?

Colleges must have published their first DES by 4 December 2006 and it should demonstrate how they intend to fulfil both its general and specific duties by covering:

- How disabled people have been involved in developing the scheme
- The methods used for impact assessment
- Details of arrangements for gathering information and how the college have used that information
- An action plan detailing how the college will fulfil the general duty and implement the scheme.



'We need to have a culture in colleges where disabled staff have a better working life.'

*Graham Burton,
South Birmingham College*

Why is this an issue for trade unions?

The active involvement of disabled people is at the heart of the Disability Equality Duty and the Disability Rights Commission makes frequent reference in its advice and Code of Practice to the desirability of involving recognised trade unions.

The disability equality duty is a opportunity for trade unions to ensure that the disabled staff they represent are getting equality in the work place. The duty has the potential to completely change the way that society regards disability. The duty embraces the social model of disability and means that all society has to have some responsibility to ensure that disabled people are treated fairly in the UK. Representation inclusion, equality and campaigning for change are at the very core of our movement and this is what this duty is all about.

Case Study City College Manchester

The impact on the local trade unions

At City College Manchester the involvement with the Disability Equality Duty has had a big impact on the unions. The UCU branch at the college now has a disability rep. The UCU disability rep was featured in the Times Education Supplement and is one of the positive role models in the UCU/UNISON Campaign.

Both unions now sit on the college's Equality and Diversity Committee and are able to feed directly into college management about issues of disability.

The unions are involved in the impact assessment process as well as disability equality training for staff.

The stewards at the college have also attended Disability Equality Duty training and have been able to use this training in their representation work at the college.

The fundamental underlying principle of the duty is that when an institution is creating a Disability Equality Scheme it must involve disabled staff. The duty is a chance to ensure disability equality for all staff and to make colleges, universities and education become fully accessible. We have a duty to ask the questions, to ask what is happening with the Disability Equality Duty and to ensure that proper representation and involvement takes place.

Involvement not consultation

The specific duties require that disabled people are actively involved in developing the scheme. In the Further Education sector many providers have been struggling to involve disabled staff.

Colleges need to develop imaginative ways to go beyond current consultation methods. Questions the colleges should be asking are:

- Who are the key stakeholders and how are they best involved?
- Will we have to do different things for staff and students?
- What local/community groups could they involve?

There can 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

Case Study Sutton Coldfield College

Online staff forums

At Sutton Coldfield College there has been some innovative practice around using online forums (Moodle) as a mechanism to involve disabled staff. This initiative was developed because the college is based over four different sites around Birmingham and the disclosure rate of disabled staff was low.

The online forums are not part of the management structure but comments made by participants are fed into the co-ordinating group by the moderator.

The forums are anonymous so as to protect confidentiality whilst maximising participation. The administrator for the online forums is also a union steward rather than a member of college management.

Through the online forums more staff were empowered and encouraged to get further involved in the college's Disability Equality Scheme and they were used as a mechanism to identify the barriers that existed for disabled staff, to find ways to remove these barriers and to create a culture where disabled staff felt that they could disclose.

The views expressed in the online forums are fed into the college's Equality and Diversity Committee to help shape development and the college's action plan.

One of the biggest reasons that increasing the involvement of disabled staff is an issue for the sector is because it is not actually known who our disabled staff are. The two major reasons for this is the lack of data that exists around disabled staff and the fact that many staff do not disclose their disability. The key reason is that staff feel that they will still be discriminated against. We need to build an FE environment that is an inclusive culture where staff can disclose their disability without fear or stigma (the issue of disclosure is covered in greater depth further on in this guidance).

Case study Kensington & Chelsea College

How involvement was initiated – this statement is taken from the Kensington and Chelsea Disability Equality Scheme.

- A letter was sent from the Chair of the Equality and Diversity Committee asking all staff if they were interested in being involved in the development of the scheme to contact her. This was also publicised on the staff intranet
 - An invitation was sent to nominated staff to become members of a working group. This was to ensure a fair balance of managers, HR, support services, a lecturer, a representative of the staff working in prisons, representatives from each of the recognised trade unions, a representative from an external agency and a student
 - Posters were displayed across the College asking students and staff to come forward and join the forum regardless of their background
 - A letter was sent to all students who indicated that they have a disability, health issues or learning difficulties inviting them to join the forum
 - Key partners were contacted and invited to the forum to ensure that a wide range of views could be considered. These are ADKC (Action Disability Kensington and Chelsea), AFBP (Action For Blind People), Equal People (supporting people with learning difficulties and/or disabilities) and BDA (British Deaf Association)
- The views and suggestions that came forward in the forum were then considered by a working group which is chaired by the College's Disability and Learning Support Manager.
- Once the initial action plan is in place it will be revised on a termly basis
 - The group will hold regular meetings to continue monitoring the scheme and its action plan. The action plan will then be used to update the scheme on an annual basis.

The work that has been achieved through the five pilot colleges has demonstrated that it is possible to change this perceived culture around in as little as two months and get disabled staff to actively come forward and be involved in the Disability Equality Scheme. In the pilot colleges there has been an increase in disabled staff involvement the following applied:

- Staff were made aware of the Disability Equality Duty
- Staff were made aware why they should be involved in the Disability Equality Duty
- Staff involvement was prioritised from senior management within the college
- There was trade union involvement
- Disabled staff were able to see the outcomes and impacts of their involvement
- Disabled staff were given adequate resources such as time off for their involvement.

Case Study Kensington & Chelsea College

Involving disabled staff

It was felt that, while the College had so far provided support to encourage the inclusion of disabled students, less had been done for staff and so the following specific points were identified:

- Encourage disclosure of staff disability – as declaration is so low staff could be asked to respond to a questionnaire which may either be just for disability or include other equality data
- Provide positive role models - an article by a member of staff with a disability is appearing in the Staff Newsletter in order to encourage other staff with disabilities to inform either HR, their managers or their union
- Consider the introduction of a disability leave policy – so that staff, who may have to attend for treatment related to their disability, do not have to have the absence treated as sickness absence
- Inform staff of what the College is trying to achieve and publicise the definition of disability as staff may not be aware
- Setting up a focus group for staff to discuss what barriers there may be to declaring a disability – treatment from colleagues, feelings etc
- Provide support to staff who are returning to work after a lengthy period of sickness absence – rehabilitation, reasonable adjustments etc
- Provide an online questionnaire about disability issues – develop it for all staff. People with hidden disabilities might not want to complete
- Promote a positive image of disability in written and visual form
- Assess the impact of actions taken.

The statutory requirement in the Disability Equality Duty is an opportunity for reps to negotiate, recruit and organise around the duty and trade union reps have a crucial role to play to ensure that the disabled members that they represent are aware of the Disability Equality Duty and are actively involved at a local level.

Case Study Isle of Wight College

Staff Disability Forum

At the Isle of Wight College a staff disability forum was set up and twelve members of staff have been involved in this.

Aims of the forum:

- To provide a forum for all staff with a disability to meet to discuss issues, offer peer support, forward recommendations to college management and to contribute to the College's Disability Scheme and Action Plan.

Terms of Reference:

- The group is open to all staff who have a disability
- The group will meet on a half termly basis ahead of an Equality and Diversity committee meeting
- Notes will be taken to forward to the Equality and Diversity Committee and from there to college management
- Attendees will remain anonymous
- Members will respect confidentiality at all times
- The Chair of Equality and Diversity will be present and the Health & Safety Officer may attend as required
- The group may choose to invite external speakers for additional support and advice if appropriate.

Checklist on the involvement of disabled staff.

This is a checklist for trade union reps to give to college management or to form the basis of questions for trade union reps to ask.

- ✓ Have you informed all staff about the Disability Equality Duty?
- ✓ Have you got different involvement mechanisms in place such as online forums, disabled staff groups, self organised trade union groups and action groups?
- ✓ Have you ensured that you are actually involving disabled staff and not just consulting with them (for example, a questionnaire to all staff is a method of consultation)?
- ✓ Are your involvement mechanisms effective? Are they proportionate, influential and transparent?
- ✓ Have you informed disabled staff why you want them to be involved?
- ✓ Have you involved a number of disabled staff with different impairments?
- ✓ Have you ensured that you have included those with hidden disabilities such as mental health impairments?
- ✓ How have you involved part time staff, staff that work remotely, teaching and support staff?
- ✓ Are disabled staff featured in your Disability Equality Scheme Action Plan?
- ✓ Is there a feedback mechanism to disabled staff so they can see how their involvement has had an impact?
- ✓ Have you started to inform staff about the work that you have been carrying out and how you have been meeting your targets that you set out in your Disability Equality Scheme Action Plan?
- ✓ Have you ensured that your involvement is not tokenistic or a one off process?
- ✓ Have you made sure that you have adequate resources for involvement such as funding staff? Giving staff time off to be involved etc?
- ✓ Have you initiated any disability equality training for staff?
- ✓ How are you involving disabled staff in the impact assessment process?
- ✓ Are disabled staff informed about the impact assessment process and how they can be involved?
- ✓ Have you carried out any training for disabled staff on the impact assessment process?
- ✓ Are disabled staff represented on any impact assessment action groups that you have formed?
- ✓ Is there a staff trade union representative on any impact assessment action groups that you have formed?

I'm not disabled but...the issue of disclosure

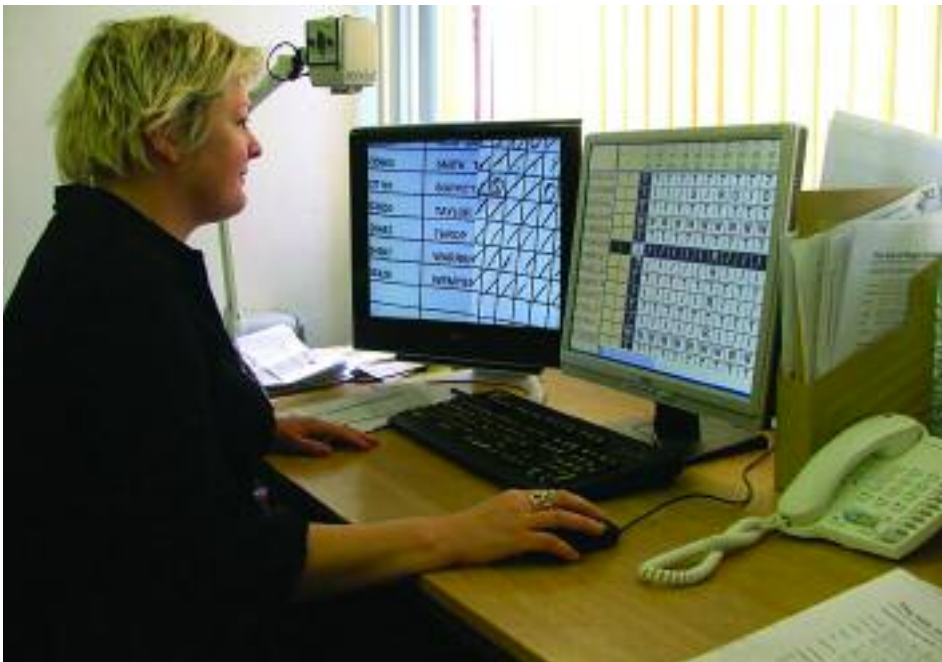
In the FE sector just over 2% of staff disclose a disability but the national estimate is that 20% of the general workforce in the UK has a disability.

The low rate of disclosure in the FE sector can be seen as a symptom of the culture that many disabled staff still feel exists around disability. The question has to be asked 'why is the disclosure rate for disabled staff still so low in FE?' and 'why do staff not want the employers to know

that they have a disability?'

If we do not know who the disabled staff in our colleges are, how can we involve them in the disability equality process, gather evidence, assess the impact that the Disability Equality Scheme and Action Plan is having and ask them what are the barriers that need to be removed?

It must be stated though that just because a college has improved its mechanisms for disclosure it does not mean that it has increased the number of



'They say information is power, the more I understand about my disability and the help available the more empowered I have felt that I am not alone.'

***Vicky Mew,
Isle of Wight College***

disabled staff its employs. Disclosure must be seen as part of the process to obtain disability equality and not as the outcome. Increasing the disclosure rate in a workplace can mean that management can start to tackle issues around disability discrimination and the concerns that staff have.

There is no requirement to disclose a disability. Some staff are reluctant to declare their disability status due to fear of future discrimination, but employers should create a workplace atmosphere that allows it to be safer for disabled workers to declare their disability status and trade union reps should be campaigning for employers to create this environment. Trade union reps could negotiate to get a public commitment from the most senior person in the college, backed up with disability equality training for staff to start creating an inclusive culture where staff feel that they are able to disclose their disability and get

actively involved in the college's Disability Equality Scheme.

In the project's training events similar themes were raised around the issue of disclosure. These were:

- There was still a stigma around disability
- Staff did not consider themselves as disabled
- Staff did not know what was now considered a disability
- Staff were not educated around disability
- College attitudes were still based around the medical model of disability rather than the social model of disability
- Disability was seen as a negative thing
- There were not the mechanisms in place to disclose
- There was still a fear around disclosing to employers (staff felt they would be the first to be made redundant; it would be seen as expensive etc.)
- Staff felt that there was no positive reason to disclose
- Staff felt that if they disclosed they would end up being a statistic
- Staff felt that their disability had no impact upon their job within the college therefore their employers did not need to know
- The language used in disclosure process, for example rather than asking what barriers exist in the workplace (which embraces the social model of disability) staff were asked 'do they have a disability?' and 'what type of disability do they have?' (this is still focused on the medical model of disability- looking at the impairment rather than the barriers).

Case Study Park Lane College

Union questionnaire and newsletter

At Park Lane College the union branch is in the process of sending its own questionnaire out to its members. The questionnaire is being produced to find out what barriers exist for staff, how the union can represent its disabled members and what changes need to happen in the workplace for disabled staff.

It is hoped that the findings of this questionnaire will form the basis of negotiations with college management and also encourage more disabled members to get involved in both the union branch and the college's Disability Equality Scheme.

Case Study Kensington and Chelsea College

Positive role model campaign

At Kensington and Chelsea College the unions and management worked together on a positive image campaign. In the staff newsletter and on posters around the college there was a photo of a disabled member of staff with her personal account entitled 'My Journey' next to the photo. At the bottom of the story was information about the college's Disability Equality Scheme, how staff can get involved and information about the work that the unions had been carrying out.

My journey

It was never going to be easy. A disability is however, just that; a disability. It took me a long time to realise that. Under legislation I am disabled but the extent to which one is disabled is dependent on society.

From the onset of my problems (before diagnosis) the union was aware and helped me through my journey. To begin with I thought this was just a small problem but as the weeks and months went by it was obvious that it was more. It was a hard journey but was made easier because I felt supported and cared for and seen as an individual. They have been with me every step of the way. Union doors were open to me at any time. They listened to me and helped me in getting a diagnosis as well as acting as a sounding board and support at work. In the early stages I was really scared about the outcomes both medically and with my employment.

Because problems started in May 2005 working in the College meant I had the summer holiday as normal but returning to work in September it was not long before movement became too painful. At this point diagnosis had not yet been confirmed by the specialist that I was waiting to see in the November. In early October I went off sick unable to move my right arm at all and didn't return until February. The union kept in close contact. I was away for a considerable time but coming back to work was easier than expected partly because of the union contact and also the Human Resources Manager contacted me before my return. I felt the right people knew about my problem and were able to prepare my colleagues about how my limitations would affect both me and their expectations of me. My nature is to help so I would take on extra tasks that I was now not in a position to do. This was hard for others (who had previously relied on me) to accept.

My journey was made easier purely because of disclosure to both the union and human resources. My journey is far from over but I feel confident that my needs are being considered.

Case Study Isle of Wight College

The process of increasing staff disclosure

When the Isle of Wight started to be involved as a pilot college they had a very low disclosure rate and their staff were very reluctant to declare that they had a disability. The Isle of Wight personnel database showed 0.5% of staff disclosed a disability. It was decided to use some very simple, low-tec ways to build trust and to make staff feel safe to declare. The college's target was to increase the disclosure rate to 5% in the first year. The college actually reached their disclosure rate target in two months.

The way that this was done was through the following process:

1. The college raised awareness of the Disability Equality Duty and its importance for staff through disability equality training, which was taken by a disabled member of staff at Isle of Wight College, at its continued professional development day, through the staff intranet and through the college's equality and diversity newsletter.
2. A letter was sent from the equality and diversity manager to all staff outlining why the college was asking staff to disclose, informing them about the Disability Equality Duty and educating them around legalisative changes around the legal definition of disability.
3. All staff were asked to fill in a questionnaire about disability and return it to the equality and diversity manager. This questionnaire included questions about the barriers that staff felt existed for them and ways that the college could

improve the culture when it came to disability.

4. At the end of the questionnaire staff were given the option to volunteer to be involved in the staff disability forum and the college's Disability Equality Scheme.
5. Staff were able to make an appointment if they felt it was appropriate with the equality and diversity manager to discuss any support that they needed.
6. When staff attended the disability staff forum their names were kept anonymous if they so wished.
7. The disability staff forum was used as a mechanism to involve disabled staff, to seek their views and enable them to work with the college on removing some of the barriers that existed for disabled staff.
8. The minutes of the disability staff forum were available to all staff and staff who had not attended before were encouraged to attend.
9. The equality and diversity manager reported back to staff about the impact that their involvement was having, changes the college was making and how barriers were being removed.

Through these 9 steps the disclosure rate at the Isle of Wight College has increased from 0.5% to 4.9% in just two months. This is because the staff have been educated about disability, given the mechanism to disclose, given a reason to disclose and seen an impact that their disclosure has had on their work place.

What can union reps be doing around the issue of disclosure?

- Run a positive image campaign
- Send out their own questionnaire to their members to find out what barriers exist and what issues their disabled members have in the college
- Use the findings of the questionnaire as a basis for bargaining and negotiations with college management
- Use the issue of disclosure as a bargaining tool to have disability equality training for all staff
- Inform members around the workplace what they are doing and why they need members to disclose and be involved
- Run an anti-stigma campaign around disability
- Inform members of their rights under the DDA and what funding they can obtain through scheme such as Access to Work.

Checklist for staff disclosure

This checklist has questions for trade union reps to ask the college and for the union's work on disclosure.

- ✓ Have staff been educated about disability and what is considered a disability?
- ✓ Have staff been informed why the college are asking staff to disclose?
- ✓ Are staff been given different opportunities to disclose?
- ✓ Is the appropriate language being used in any questionnaires etc.?
- ✓ Are any questionnaires that are being produced centred on the social model of disability rather than the medicinal model (e.g. what barriers exist in the college for disabled staff?)
- ✓ Have the trade unions being involved and consulted about disclosure?
- ✓ Are staff seeing a positive impact after disclosing?

Impact assessments, reviewing and enforcement

Impact assessment

As part of the Disability Equality Duty every institution has to state its impact assessment methods in its Disability Equality Scheme. Institutions must also set out their method of assessing the impact of policies and practice on disabled people. It is good practice for institutions to involve trade unions and disabled people in the impact assessment process.

The impact assessment process also provides trade unions with a real opportunity to ensure that institutions are paying due regard to disability equality in relation to everything the institution does including all policies and procedures. For example if an institution makes a policy decision to cut funding they must have done an impact assessment from a disability equality angle.

Impact assessments play a key role in implementing the disability equality duty. They are a basic procedure and a legal requirement for authorities covered by specific duties .

They aim to:

- Ensure no groups are disadvantaged on equality grounds by an authority's decisions and activities
- Identify where public authorities can promote equality of opportunity.

Where a negative impact or a missed opportunity to promote equal opportunities is identified, the specific duties say the public authority must have 'due regard' to the need to modify the policy or practice.

Impact assessments do not have to be an onerous process, and will depend on the size of the authority. But they all need good information; consultation with staff, service users and trade unions; and having staff in relevant posts with the skills to be able to analyse the implications for equality.

The specific duties require the assessment of existing policies and practices as well as new ones. This might involve more work, so authorities should set a timetable to impact assess their main activities over the first three years of the scheme. For new policies and practices, impact assessments are best carried out early in the decision-making process.

Not all policies and practices will be equally relevant to a



'I am a teacher, not 'in spite of having MS', nor 'because of it'. I am a teacher because that is what I have always enjoyed doing.'

Stephanie Lee-Dwyer, City & Islington College

particular duty. But where they are the authority should make sure it has given it 'due regard'.

The scary world of impact assessments

Impact assessments are seen as one of the most crucial but difficult aspects of the Disability Equality Duty but it must be remembered that impact assessments are not:

- rocket science
- exact science
- frightening
- detached from mainstream everyday decision-making
- An afterthought
- something which should take months
- just a checklist or templates
- Something that stands alone. The whole purpose of the impact assessment process is to achieve improvements and to change practices and culture within the college.

For the impact assessment process to be truly working in your college it should be:

- Be embedded in all decision-making and policy development at all levels
- A way of thinking, people should automatically think if I do this, if this policy is written or if we make this decision how will it impact upon disabled people. This will mean that the impact assessment process will become part of everyone's day job
- Making changes within your college and working towards disability equality.

Preliminary and full assessments

A preliminary 'screening' is useful to decide if a full impact assessment is needed. This should look at the aims of the policy or practice (this should be straightforward) and existing evidence. Even if there is little data, action may still be required. The screening should consider if:

- a) The policy is a major one in terms of scale or significance for the authority's activities; or
- b) Although the policy has a minor impact, it is likely to have a major impact upon equalities. A policy which has an extremely negative impact on a small number of people

is more important than one with a minor impact on more people.

If the policy fits into either a) or b), the authority should conduct a full impact assessment which will involve the college:

- Considering available data and research; consulting on the policy; assessing its impact
- Considering measures which might mitigate any adverse impact, and alternative policies
- Arriving at a decision
- Publishing the results of the impact assessment
- Arranging for future monitoring.

Further research or consultation may be necessary, especially if it is likely to lead to a different conclusion.

The authority should look the different needs, experiences, concerns or priorities of different groups, and involve people from marginalised groups in conducting the assessment. Unintended consequences of a policy should also be considered.

What to assess

- All major policies should be considered
- All minor policies which could have a significant impact on disabled people should be considered
- Don't forget day-to-day decisions, some way of identifying impact and improvements is helpful.

For each policy or practice, the following information needs to be gathered

- What is the purpose of the policy/practice?
- What are the objectives?



We all have barriers that we have to overcome. In short, nobody has any room to be prejudicial towards any other colleague as we all have abilities and we are all unable to do something. When you think of me, think of my abilities and never my inabilities!'

George Day, City College Birmingham

Case study City College Manchester

At City College Manchester the two unions have been working closely with management on the impact assessment process. Both UCU and UNISON are represented on the equality and diversity committee. Through the work that the unions have been doing an impact assessment sub group has been set up with union representatives, HR and student services sitting on the group as well as a member of the senior management team.

The group looked at devising a strategy for the college on impact assessments including training staff on the impact assessment process and how to involve disabled staff and students in the process.

- Who was responsible for creating the policy/practice?
- Who is responsible for implementing it?
- Who are the people affected by the policy/practice?
- Is there any evidence that disabled people have different needs in relation to the policy/practice? Think about barriers which may exist for people with different types of impairment.
- Does this policy/practice contribute to or hinder disability equality in the college?

The college needs to set out a timetable for assessing the impact of its policies, procedures and practices over the period covered by the Disability Equality Scheme. Priorities for action should be established with the involvement of disabled people and published within the DES. The information published from impact assessments must be made available in an accessible format.

Stages of the Impact Assessment Process

Step One	Map all policies and practices
Step Two	Screen policies and practices to determine priority
Step Three	Consider the evidence
Step Four	Assess the impact
Step Five	Explore options and make decisions
Step Six	Identify monitoring processes
Step Seven	Publish the results of the impact assessment process

Pro-forma for Impact Assessment

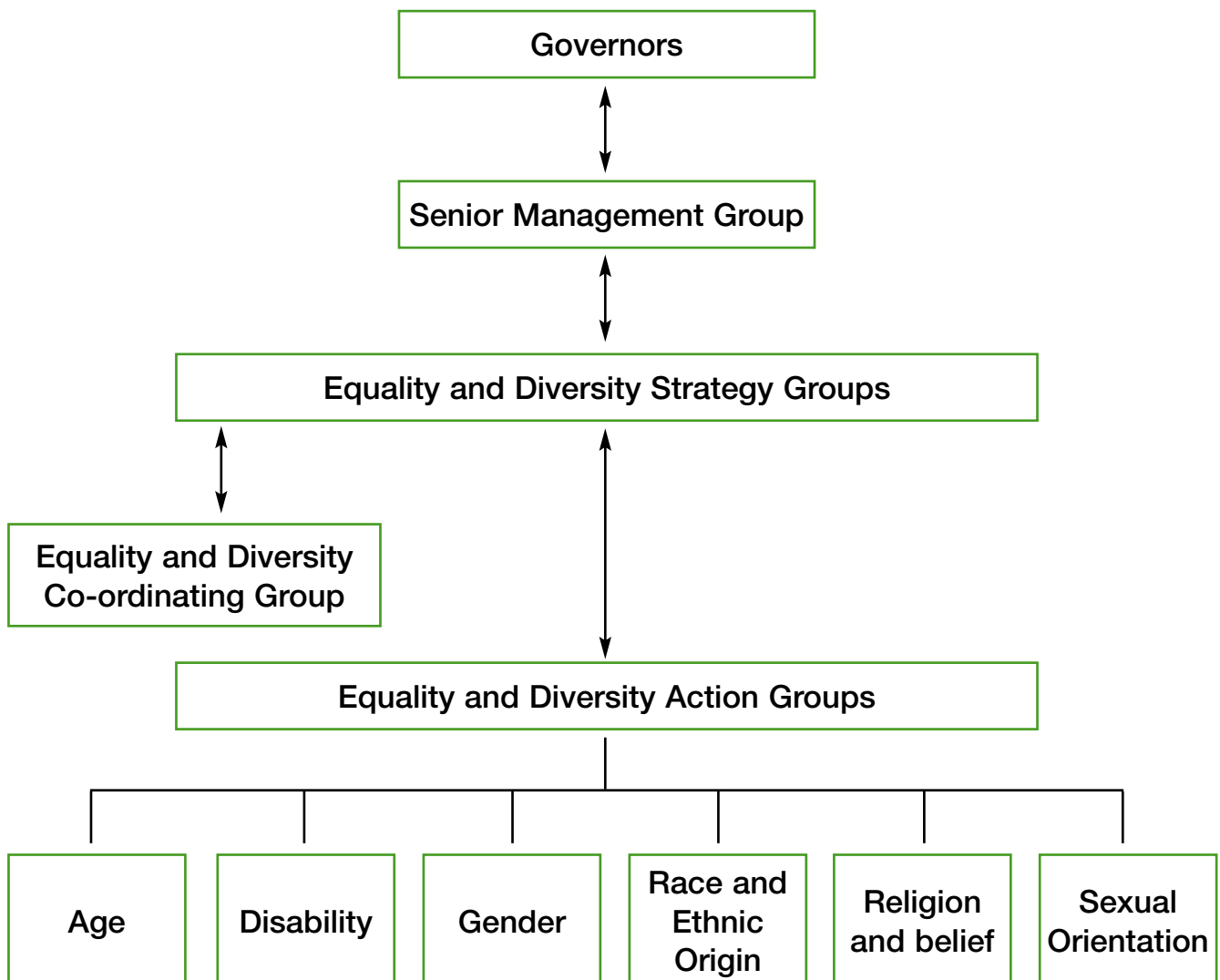
This pro-forma was developed through the work of this project and the race relations project.

Name of policy/function being assessed:	Name of manager/group carrying out the assessment:
Has the initial screening form been completed? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is this a new or existing policy/function? <input type="checkbox"/> Yes <input type="checkbox"/> No
1. In what areas are there concerns that the policy/function could have a impact (please tick box)	<input type="checkbox"/> Gender <input type="checkbox"/> Race <input type="checkbox"/> Disability <input type="checkbox"/> Sexuality <input type="checkbox"/> Age <input type="checkbox"/> Religion/belief
2. What sort of concerns is there that the policy/function could have a differential impact on other groups? Please give details. (continue overleaf if necessary)	
3. What evidence do you have for this?	
4. What are the risks associated with the policy in relation to the differential impact?	
5. What are the expected benefits of the policy?	
6. Who has been approached to explore these issues e.g. staff groups, trade unions, student groups, voluntary groups etc. (Please give dates and details of contact)	
7. How have you gained the views of these experts/groups (e.g. letter, meetings, interviews, forums, workshops, questionnaires or any other method)?	
8. Please give details of the views of the experts/groups on the issues involved.	
9. Taking into account these views and the available evidence please outline the risks associated with the policy/ function weighed against the benefits.	
10. What changes/modifications will now be made to the policy/ function in the light of this Impact Assessment?	
11. How will these changes/modifications be communicated to interested parties (i.e. the groups which were adversely affected) and those consulted?	
Signed(completing officer) Job title	Date of completion of Impact Assessment:

Case Study Sutton Coldfield College

Impact Assessment Action Groups

At Sutton Coldfield College impact assessment action groups have been set up around each of the equality strands. These impact assessment groups have staff and students represented on them as well as trade union representatives. Each group is involved in the action plan as well as being involved in the impact assessment process. Each action group feeds in observations, remarks and evidence that have been gathered from the online forums. Each of the action groups is chaired by either a student or a member of staff.



Checklist for trade union reps on impact assessments

- ✓ How are the college going to carry out impact assessments?
- ✓ Is there an impact assessment action group/ steering group in college?
- ✓ Is there trade union representation on the impact assessment action group?
- ✓ How have disabled staff/ trade union members been involved in the mapping and prioritisation of what policies to impact assess?
- ✓ How have disabled staff and members been included in the impact assessment process?
- ✓ If any decision has been made that affects members has an impact assessment been carried out?
- ✓ Does the impact assessment have sufficient evidence?
- ✓ What methods has the college used to gather evidence?
- ✓ Has the college followed a process in carrying out its impact assessment?



'I've always felt 'normal' and expect to be treated with respect in the same way as anyone else. I'm not incapable I just happen to have a disability.'

Verena Beane, Kensington and Chelsea College

Reviewing the Disability Equality Scheme

The Disability Equality Schemes must be reviewed every three years. The review should include an assessment of progress to date. It should try to continuously improve efforts to meet the duties, considering if the previous scheme objectives and the method of impact assessment are effective and appropriate.

Evidence should include information that has been gathered; the results of impact assessments and any feedback from stakeholders on the effectiveness of the preceding scheme.

Groups of people who benefit by the new duties, trade unions and others should be included in this review.

How can trade union reps ensure that a review of the scheme is happening?

Trade union reps can play a vital role in reviewing a college's Disability Equality Scheme. This can be done through the following ways:

- Read the college's Action Plan and then ask the college if set targets and dates have been met
- Ask to see updates on the Action Plan
- If the college's Action Plan does not include particular reference to disabled staff ask why and how the college management is going to rectify the situation
- Ask how the college is going to publish the actions and work it has been carrying out to staff
- Ask when the annual review of the work carried out by published by the college
- Raise the Disability Equality Scheme at union meetings with management
- Liaise with management about the role that the unions can play
- Inform members about the college's Action Plan and the work that should be carried out
- Get members or the branch to write letters/ emails to college management if it is felt that the appropriate actions have not been included or carried out.
- Liaise with the staff elected governor on the board of corporation to bring up the issue of the Disability Equality Scheme at a corporation level.

Enforcement

The regulations put a strong emphasis on encouraging and helping public authorities comply with the duties. The DRC have issued both statutory codes of practice (which must be complied with) and non-statutory codes that explain and encourage good practice. The Commission for Human Rights and Equality (CEHR) takes over responsibility in October 2007.

However, if a public authority (including a private or voluntary organisation exercising public functions) does not comply with a general duty then a person or a group of people with an interest in the matter, or one of the equality commissions can ask the High Court for judicial review.

If a public authority does not comply with a specific duty then the equality commission can serve a compliance notice and subsequently apply to the county court or sheriff court (in Scotland) for an order requiring the authority to comply with the duty. If the court makes an order then the authority may be in contempt of court if it does not obey it.

Trade unions have a crucial role to play in enforcing the Disability Equality Duty. The DED is intended to be dynamic. The action plan should be reviewed on a regular basis and if this has not been happening you can empower your disabled members to demand to see action and to get your college to implement the duty, Disability Equality Scheme and Action Plan. At the end of this guidance are model letters that can be used to enforce the duty and ensure that it stays a high priority within your college.



‘Although I have Cerebral Palsy and use a wheelchair, this has not stopped me from doing what I have wanted to do and achieve. Although your impairment may mean that it may take longer to achieve your goals and objectives, the sense of achievement is immense when you do achieve your goals. Disabled People can do play a very active part in the life of the local and national community.’

Paul Mittler, Community Governor, Mancat College

Using the Disability Equality Duty to organise, recruit and negotiate

Some activists have kept away from equality issues in the past, because the issues seemed difficult or unimportant. But the new duty requires big changes from employers and branches must be involved. It is an opportunity for lead branch officers, branch equality officers, activists and members to work together to strengthen branch organisation. Employers also have to be held to account to show they are delivering equality for our members.



Activists can use the disability equality duty for the following action:

Stopping privatisation – If your employer is proposing to contract-out a service, use the new duties to make sure there has been an equality impact assessment. The chances are that the contractor will have lower equality standards for staff and service delivery and you can use this to argue for the service to be kept in-house.

‘I have a dream that in the near future, we will all be part of the society and not to be treated differently, or too differently. In some ways, for me, it had started where staff are friendly, co-operative and open-minded.’

Reg Cobb, Kensington and Chelsea College

Getting consulted – If your employer is proposing changes to working patterns, make sure they have complied with their legal equality duties by consulting with staff and unions first. If the changes have a detrimental impact on some staff, argue for changes on equality grounds.

Organising

The Disability Equality Duty is an ideal opportunity to recruit and organise new members. Use an organising approach to involve a whole new group of members in the mainstream of the branch. The Disability Equality Duty states that disabled people must be involved (more than just being consulted) and involving trade unions and their networks will provide information and advice to “help ensure that all relevant issues are addressed.”

The duty says that employers must involve disabled people. The branch should encourage members to participate and use the union to express their collective view.

Stewards are at the front line in using the duty as an opportunity to recruit, gain new activists and promote the union as leading the fight for equality. They need to give members a helping hand to become involved, and encourage them to think how the duty might improve their working lives and service delivery.

The equality duty also means an increase in the role of many branch equality officers. They need to make sure branches take up the duty as a bargaining and organising issue, and should encourage members to go on equality training courses. They should help set up self organised groups and be key advisors in negotiations. The duty can be used as a bargaining tool to make employers give facility time to branch equality officers.

Self-organised groups

As colleges have to involve staff, this is an ideal time to launch branch self organised groups. They should be given paid time off to meet and discuss disability equality plans and review the progress of the employer in promoting disability equality. Self-organised groups should also help the branch to publicise the duty, and campaign and organise around disability equality to recruit new members. The experiences and understanding of self-organised groups is a key resource for negotiations good agreements.

Negotiating

There are a number of key areas for collective bargaining. Branches should be specifically involved in:

- Drawing up Disability Equality Scheme
- Determining the criteria for Disability Equality Impact Assessments
- Jointly assessing existing policies and functions
- Jointly assess new policies and functions
- Receiving equality monitoring information on an annual basis
- Jointly reviewing the outcomes of the Disability Equality Scheme

Private contractors are only covered by a general equality duty (and not by the specific duties) and so they may provide poorer quality services. This should be used as part of the argument against privatisation and contracting-out of services.

What should the branch/local association be doing now?

The DES is intended to be dynamic. The action plan should be reviewed on a regular basis. If you have not been involved already, ask for trade union involvement in the review process. Demand that disability equality training is provided to allow your members to meet their new duties to students and prospective students. Ask for disability equality impact assessments on any new policies or practices. Look out for future training/briefing events on the DED provided by the unions.

Case Study Park Lane College

Using the Disability Equality Duty as an organising and negotiating tool

The union branch at branch Park Lane College as been using the Disability Equality Duty as a new method to organise and recruit.

Work that has been carried out includes:-

- Negotiating with college management around the Disability Equality Duty and the impact assessments
- Getting trade union representative on impact assessments steering groups
- Negotiating with college management about the involvement of staff in the Disability Equality Scheme
- Organising Disability Equality Duty training at the college
- Devising a questionnaire sent out to all members about disability equality
- Informing the members of the work that has been carried out on disability equality
- Getting a member to become the equality officer for the branch.

Management and unions working together

The project has identified that where there is real effective change for disabled staff is where both college management and the trade unions are working in partnership to embed disability equality.

Benefits of engagement and ownership

- Both employer and trade unions have a shared commitment to continuous improvement for staff at all levels in the workplace
- The Further Education sector has a pivotal role both as an employer and an educator and should promote good practice in all areas of staff management, including equality and diversity, staff development and a commitment to security of employment. Any employer that gets its equalities right is generally a good employer and this is reflected in the quality of service delivery.

Benefits

Effective partnership working has the potential to produce some important benefits for all parties.

These include:

- Delivering improved services improved mutual understanding
- Can build capacity and sustainability ensuring high standards of employment practices
- Provides a transparent and streamlined structure for trade union, employer and staff engagement.

Case Study Kensington and Chelsea College

Trade unions and management working together

At Kensington and Chelsea College there has been a very positive relationship between the trade unions and management which has embedded disability equality and a change in culture for staff. This commitment and working relationship is demonstrated by the opening paragraph of the college's Disability Equality Scheme.

“This Disability Equality Scheme is an exemplar of constructive collaboration between management and unions. It has involved staff from all sections of the College, students, a local voluntary organisation for people with disabilities and includes the views of non-users of College services. It reflects the positive impact of the existing College commitment to provide an inclusive working and learning environment and our ambition to continuously improve services to all members of the College community.”

The trade unions are represented on the equality and diversity committee and on the disability action group. Training for senior management about the college's Disability Equality Scheme was facilitated by both management and the unions.

How to get started on working with your employer on the Disability Equality Scheme

- Ask them if they have liaised with the staff about the DES including the trade union representatives.
- Ask the governing body to assign a lead/link governor on the DES.
- Check out whether the college is planning on organising training events and also check if UNISON/UCU/TUC are running any events. Attend this training with your employer.
- Set up a working group or disabled users group – this need not be large but we would recommend that it made be of all the representative members of staff i.e. both teaching and support staff on which relevant stakeholders such as the recognised staff unions and the governing body will have a seat.
- The working group to monitor the DES. It is recommended that the DES is an active policy and that the college take steps to begin implementing the actions set out in the Disability Equality Scheme with a view to having implemented by the end of the three year period.
- Highlight the positive role the trade unions can play in working with the college; they will have access to advice, training and links to the local community.
- Look at sharing good practice and experiences.



Appendix

The project

In 2006 the University College Union (UCU) and UNISON were successful in obtaining DfES funding via Centre of Excellence in Leadership to develop a project to deliver the new duties in the Disability Discrimination Act (DDA) in colleges. Disability discrimination was still a relatively new legal concept and the aim of the project was to work in partnership with the colleges to deliver the positive duty under the DDA.

The project has delivered for colleges and for the sector in providing training, support, guidance and case studies. The project has been focused on practical solutions and the practical aspects of the disability equality duty. It has encouraged providers to set up disability action groups and disabled staff groups. It has encouraged providers to work in partnership with trade unions in colleges to deliver the positive duty on DDA. The involvement of the trade unions in this initiative has started to gain the trust of the employees and the project has started to achieve tangible positive outcomes.

In the pilot colleges a substantial amount of work had been done on the involvement of disabled staff in the disability equality scheme process and there are examples of innovative practice. In some cases the involvement of disabled people was highly influential and took a central development role.

Ten training events have been held around the country to which trade union members, stewards, union contacts, college managers, vice principals and other staff attended. The aim of the first six events held between July and October was to set out the general principles of the legislation and identify how members can engage and work with colleges in putting the policy into practice. Further events centred on how members can build on their involvement with the schemes and ensure that they are involved in impact assessments and to ensuring that the college action plans are carried out.

‘What I have learned from the course will help me a great deal in designing and completing the Disability Equality Scheme for my College. Furthermore, having you and your project in place will give me added confidence for moving disability related issues forward in the College because I know there'll be help at hand if I need to.’

Participant on the DED training course

The project not only met but surpassed the goals set for it. For example one of the project aims was to train 100 members of staff on the disability equality duty but in fact around 600 have been trained over the last ten months.

Key achievements over the last year

- Over 50% of HR managers in sixth form colleges have had training on the disability equality duty and how the good practice around this duty can be transferred to both the gender duty and the race relations amendment act.

'I have learnt how much work there is to be done, how little colleges know but more crucially how this can help a lot of staff and the need to get cracking now... Hadn't realised before the training how much the DRC was behind the DED and that they would be the body to take out compliance orders. I think it is a very useful piece of legislation which has taken a long time to get there - we need to see that colleges as educators do comply and with best practice by giving them all the positive support we can as a union.'

Participant on the DED training course

- There have been over 600 participants who have received disability equality duty training through the disability equality duty project.
- Media coverage around the disability equality duty and the involvement of disabled staff.
- UCU/UNISON have entered a consortium with other key stakeholders in the FE sector (NUS,LSN, CEL, NIACE and SKILL) to tender for the LSC support programme on the disability equality duty that is running from November 20th 2006 until the end July 2007.

The consortium won the bid and now we are delivering a support programme to the sector on how to implement the duty. The unions are leading on two sections of the support programme; employment duties and a regional involvement framework.

- There is a raised awareness within the FE sector with regards to the employment side of the disability equality duty.
- Support networks have been established from the training sessions.
- Established links with five pilot colleges. Intense work and guidance was given to these colleges.
- Good practice including guidance, case studies, tool kits and training materials have been developed.
- We have developed a good working relationship with the Disability Rights Commission (DRC). The project

organiser sits on the post 16 DRC consultation group and has fed into the post 16 guidance from a union perspective. The project organiser also sits on the DRC Campaigns Strategy Group and the project has contributed to the DRC's fitness to practice investigation.

- Through regular contact and catch up meetings the project has been able to influence guidance and suggest ways to ensure trade union involvement in disability equality duty activity.
- The project organiser sits as a member of the Commission for Disabled Staff in the Lifelong Learning Sector.



Model letters

These are model letters that trade union reps can use to negotiate and campaign around the disability equality duty. These letters are based on the letters produced by the Disability Rights Commission in their *The Disability Equality Duty Disabled People's Toolkit*—to find out more go to www.drc-gb.org

Letter one

Letter requesting to see a college's Disability Equality Scheme

Send to:
Chair of Governors
Principal
SMT

You will know best whether to send it to the board, copying in the Principal or vice versa.

Dear

As you are no doubt aware, the college has a specific set of duties under the 2005 Disability Discrimination Act to write and publish disability equality schemes setting out what you will do to promote disability equality. Furthermore:

- Colleges must collect and analyse data on disabled staff and students
- Colleges will be obliged to reflect on the outcomes of monitoring
- Colleges will have a duty to monitor the effectiveness of the scheme
- Colleges 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.

As you know the college has a duty to actively involve disabled people and the Code of Practice recommends involving staff unions in the implementation of the Act.

I would therefore be grateful if you would supply me with a copy of the college Disability Equality Scheme and monitoring information. I would also be grateful if you could let me know how you are intending to involve disabled people within the college.

If you could provide me with this information by.....I would be most grateful.

Regards

Letter two

Lack of involvement of disabled staff

Dear (insert name of Chief Executive, Principal, Chair of Governors etc)
(Insert name of college's) Disability Equality Scheme and involvement of disabled people

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to: promote equality of opportunity for disabled people, eliminate unlawful discrimination, eliminate disability related harassment, promote positive attitudes towards disabled people, encourage participation of disabled people in public life and take into account disabled people's disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005/ Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce a Disability Equality Scheme, involve disabled people in the development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme.

As a disabled employee/branch secretary of the institutions Trade Union/UNISON Equalities Officer/UCU Equalities Officer/UNISON Disabled members officer/UCU Disabled Members Officer [delete as appropriate] of [insert name of college] I am interested in your disability equality work, and have read a copy of your Disability Equality Scheme. Unfortunately I cannot see how disabled staff and the recognised staff trade unions have been involved in the development of the Scheme, and how that involvement has influenced the actions in your Action Plan.

Please can you send me more details on how disabled staff and the recognised staff trade unions were involved in the development of your Scheme? I would like more information on: the groups of disabled people you involved, as well as individuals

- how you involved disabled staff
- any involvement you had with the recognised staff trade unions
- what mechanisms (e.g. meetings) and methods (e.g. online forums) have you used
- and how you used the involvement of disabled people to influence your Action Plan.

Please can you send me this information [state if you need information in an accessible format] within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully

Letter three

Disabled staff have been involved but are unable to see that their involvement has had an impact on the Disability Equality Scheme and action plan.

Dear (insert name of Chief Executive, Principal, Chair of Governors etc)

(Insert name of college's) Disability Equality Scheme and involvement of disabled people

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people's disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005/ Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce a Disability Equality Scheme, involve disabled people in the development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme.

As a disabled employee / branch secretary of the institutions Trade Union/ UNISON Equalities Officer/UCU Equalities Officer/UNISON Disabled members officer/UCU Disabled Members Officer (delete as appropriate) of (insert name of public authority) I was involved in the development of your Scheme but cannot see what impact this has had on the Scheme's Action Plan. (Insert information of how and when you were involved and what suggestions you made, e.g. I was involved via a staff forum in October, and I made suggestions around sickness policies and staff development). Please can you tell me whether this information was taken on board, and whether there is a corresponding action in your Action Plan. If my suggestions weren't taken on board please can you tell me why this was.

Please can you send me this information (state if you need information in an accessible format) within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully

Letter four

A letter about the fact that a college has not given 'due regard' in its decision making (such as shutting a campus, redundancies etc.)

Dear (insert name of Chief Executive, Principal, Chair of Governors etc)

Due regard to disability equality

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people's disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005/ Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce a Disability Equality Scheme, involve disabled people in the development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme. Public authorities must also set out their method of assessing the impact of policies and practice on disabled people.

I am concerned that [insert name of public authority] hasn't given due regard to [insert element of the general duty e.g. eliminating disability related harassment, promoting positive attitudes] in one of its functions. [Insert details of policy, practice, or initiative where you feel due regard hasn't been given e.g. redundancies, closing of courses, closing down a college campus, merging with another college, reducing teaching time]. The general Disability Equality Duty requires you to consider disability equality in relation to everything you do and impact assessment – which you should have set out your arrangements for conducting in your Disability Equality Scheme - is the means by which you can ascertain how effectively to comply with the duty. Please can you indicate how you have had due regard to the need to promote disability equality in all its elements in your decision to [insert details] and in particular can you send me a copy of the disability equality impact assessment you conducted before taking this decision/amending this policy/continuing with this practice [delete as appropriate]. If you have not conducted such an assessment, please indicate why not.

Please forward this information to me within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully

Letter five

If you think your college's Action Plan does not include the right actions.

Dear [insert name of Chief Executive, Principal, Chair of Governors etc]

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people's disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005/ Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce a Disability Equality Scheme, involve disabled people in the development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme.

As a disabled employee / branch secretary of the institutions Trade Union/ UNISON Equalities Officer/UCU Equalities Officer/ UNISON Disabled members officer/UCU Disabled Members Officer [delete as appropriate] of [insert name of public authority] I am interested in your disability equality work, and have read a copy of your Disability Equality Scheme and Action Plan. Having read your Action Plan I don't think it includes the right actions. Your Action Plan does not cover [insert more info on areas that the Action Plan does not cover e.g. there is no information on how you are going to improve training for disabled staff, there is no information on how you are going to increase the retention of disabled staff].

As a employee / branch secretary of the institutions Trade Union/ UNISON Equalities Officer/UCU Equalities Officer/UNISON Disabled members officer/UCU Disabled Members Officer [delete as appropriate] of [insert name of college] I feel that the above areas/functions need to be addressed within [insert name of college]'s Action Plan and Disability Equality Scheme. Please can you send me more information on why these areas aren't addressed, and any plans you have to include them in subsequent Action Plans.

Please forward this information to me within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully

Some frequently asked questions on the Disability Equality Duty

Q1. What is the Disability Equality Duty?

This is a new legal duty, introduced by the Disability Discrimination Act 2005, which means that every public body (including colleges and universities) will need to look actively at ways of ensuring that disabled people are treated equally. It's about including equality for disabled people in the culture of public authorities in practical and proactive ways.

Q2. When did it come into force?

On 4 December 2006. By that date, all colleges and universities must have published their disability equality scheme.

Q3. What acronyms do I need to know in order to follow all the advice available?

Advice on 'doing the duty' is littered with acronyms. The following are the most common:

DRC – Disability Rights Commission
DDA – Disability Discrimination Act
DED – Disability Equality Duty
DES – Disability Equality Scheme

Q4. What does the DED include?

All public authorities are subject to 'the general duty' (see Q5). Most public authorities, including colleges and universities are also subject to a series of specific duties (see Q6).

Q5. What does the general duty require?

It requires public authorities to take the following six steps:

- promote equality of opportunity between disabled people and other people
- eliminate discrimination that is unlawful under the Disability Discrimination Act
- 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.

Q6. What do the specific duties require?

- Publication of a disability equality scheme.
- The involvement of disabled people in the development of the scheme.
- Within three years, take the steps set out in the action plan.
- Publication of an annual report which must include a summary of the steps taken, the results of its information gathering and the use to which the information has been put.

Q7. What should be in the DES?

The DES must include:

- a statement of the way in which disabled people have been involved in the development of the scheme
- the action plan, with specific outcomes and a timetable
- information-gathering arrangements

- impact-assessment arrangements
- use of the information gathered.

Q8. Who is covered by the DED?

DED applies to England, Scotland and Wales. In relation to colleges and universities, it applies to everyone involved—staff, students, potential students, visitors, contractors.

Q9. What is the role of trade unions?

The DRC makes frequent reference in its advice and code to the desirability of involving recognised trade unions. Ideally, you should have been involved in drawing up your institution's DES. This appears not to have happened in many institutions.

Q10. What should the branch/local association be doing now?

The DES is intended to be dynamic. The action plan should be reviewed on a regular basis. If you have not been involved already, ask for trade union involvement in the review

process. Demand that disability equality training is provided to allow your members to meet their new duties to students and prospective students. Ask for disability equality impact assessments on any new policies or practices. Look out for future training/briefing events on the DED provided by the unions.

Q11. What difficulties are colleges and universities likely to face in meeting the DED?

The active involvement of disabled people is at the heart of the DED. Only 2% of the academic work force in post-16 education has declared a disability, despite the fact that 20% of the working age population are covered by the DDA. There is likely to be a massive incidence of under-disclosure. You might want to discuss with management ways of convincing staff that it is both safe and in their interest to declare a disability and to get involved in the DED.

Checklist for branches/ stewards about the Disability Equality Duty

- ✓ Use the introduction of the Disability Employment 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. Put this on the branch committee and regional committee agendas.
- ✓ 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—we can provide advice on how to do this.
- ✓ Liaise with other campus unions to set up a joint union Disabled Members' Group.
- ✓ Encourage disabled members to join self-organised groups and networks, as local, regional and national level.
- ✓ Ensure that there is trade union representation on disability equality/impact assessment working parties/committees.
- ✓ Put the Disability Equality Duty on the agenda of any joint union committees.
- ✓ 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.
- ✓ Press your employer to run disability equality training for all staff.
- ✓ Monitor the Disability Equality Scheme and Action Plan.
- ✓ Promote the Disability Equality Duty and the work that you are doing in this area to members and staff by putting articles in media, holding training, facilitating debates & workshops, putting up posters, using notice boards, emailing & putting up information online.
- ✓ Work with the staff governor to bring up the Disability Equality Duty at board of governors meetings and other senior committees to find out what the institution is doing about the duty.
- ✓ Arrange a meeting between senior management and disabled staff.

- ✓ Do research about the Disability Equality Duty on web sites such as the Disability Rights Commission www.drc-gb.org.
- ✓ Attend disability equality training events.
- ✓ Submit motions to about the Disability Equality Duty (a model motion is at the bottom of this briefing).
- ✓ Ensure that your institution talk to ALL disabled staff not just one or two.
- ✓ Set up an implementation working group—we would strongly recommend that this be a joint union group.
- ✓ Confidentially map or survey your disabled members to find out the barriers that they face in the workplace.
- ✓ Agree a disability equality policy and look at wider equality agenda.
- ✓ 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 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 union training events for branch or association officers on disability issues.
- ✓ Encourage new activists to become reps and/or join the college branch/committee.

Questions for branches/stewards to ask about the Disability Equality Duty

- Q.** Are trade unions being included in the college's Disability Equality Scheme?
- Q.** Are staff being involved in the college's Disability Equality Duty?
- Q.** Do staff/trade union members know about the Disability Equality Duty?
- Q.** Does your institution have an Equality Committee/Forum with trade union representation?
- Q.** Does your institution have a disabled staff group?

-
- Q. Is there a disability policy?**
 - Q. Was it negotiated with the union?**
 - Q. Were disabled members of staff actively involved in writing it?**
 - Q. Do all members of staff have copies of the policy?**
 - Q. Has your institution begun to monitor its staff profile by disability?**
 - Q. Has the institution begun to publish the results of the staff monitoring?**
 - Q. Has the institution set targets for recruitment where the staff population is under-representative of key groups?**
 - Q. 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 buildings, curriculum?**
 - Q. Have groups of disabled staff been actively involved in assessing the institution's general progress towards achieving equality between disabled and non-disabled people?**
 - Q. Have groups of disabled staff been specifically consulted on key institutional policies, which are likely to have significant impact on disabled staff?**
 - Q. Have all staff received training, in work time, on disability equality?**

Social Model of Disability

UCU and UNISON support the Social Model of Disability. We believe it is the way society organises that creates barriers to inclusion and prevents disabled people from taking an equal part in life. The social model of disability enables disabled people to look at themselves in a more positive way which increases their self-esteem and independence.

The traditional view of disability is called “the Medical Model of Disability”, because it sees people as medical problems. As a result disabled people are expected to see their impairment as their problem, something they will have to make the best of and accept that there are many things they cannot do.

The social model of disability starts from a different perspective. It ignores how “bad” a person’s impairment is. Instead it establishes that everyone is equal and demonstrates that it is society which erects barriers that prevent disabled people participating and restricts their opportunities.

The social model looks beyond a person’s impairment at all the relevant factors that affect their ability to be a full and equal participant in society.

Heavy doors and inaccessible public transport are just two examples of what makes travelling such a hassle—not the fact that someone is disabled. Every disabled person can make their own list of the barriers that limit their participation. When these barriers and other people’s negative attitudes are considered, it is easy to see how disabled people’s opportunities are limited by a multitude of barriers.

The social model of disability states that the solution is to rid society of these barriers, rather than relying on curing all the people who have impairments (in many case this is not possible or desirable).

For example, people with poor eyesight are given a simple piece of equipment—a pair of glasses. Without them they would be excluded from full participation in society and would therefore be disabled.

Similarly, the social model solution to the fact that a wheelchair user is disabled because they cannot use public transport is simple—make all public transport accessible to everyone!

This social model approach to disability that sees the problem as society's barriers, rather than the person's condition, allows disabled people to lift the blame from their shoulders and place it squarely onto society's. The social model of disability empowers disabled people to challenge society to remove those barriers.

Example letter for staff disclosure

This letter and questionnaire was used at Isle of Wight College to improve disclosure rates.

Dear Colleague

Recent legislation changes

First let me introduce myself to those of you who do not know me. I am the newly appointed Head of Equality & Diversity and my name is Pauline Hitt. At the present time, until a successor is appointed, I am also doing my old job as well, Head of Learning Opportunities. For those of you who are new to the college I have worked here for 23 years in a variety of roles mostly within support for those with a disability/learning difficulty; and literacy and numeracy in various formats. I have long been a champion of social inclusion and widening participation and I am looking forward to my new role.

Disability Discrimination Act

This has been in force for eleven years now with updates which continue to increase its effectiveness and power. The latest change is the Public Duty to Promote Disability Equality. As a government body the college has to produce a **Disability Equality Scheme** with a three-year action plan. A copy of this has to be sent to the LSC and is monitored via the inspection process. To enable the college to gather evidence we wish to consult with the community, learners and staff who have a disability so that the plan contains actions that will provide support, chances to continue the consultation process, and improve opportunities for everyone with a disability whatever their role: employee, student, visitor, stakeholder, or partner.

As part of this work we are joining with other public agencies: IW Council; NHS; Hants & IW Constabulary and the voluntary sector so that we can produce an Island wide scheme which prevents duplication of the consultation process and provides some 'joined up' actions and ideas. However, we still have to produce our own plan by December.

To start this process we need to know who amongst the staff has a disability. We fully realise that this is a very sensitive area and that people have the right not to disclose. Some may not realise just what defines a

disability. It includes any physical or sensory impairment, learning disabilities; learning difficulties e.g. dyslexia, health conditions such as cancer, multiple sclerosis, ME; autism, ADHD, and mental health. I attach some information taken from the latest government Code of Practice for additional guidance.

We are also working in a project with UNISON and UCU (formerly NATFHE) as one of six colleges nationwide who are developing support systems for its staff with a disability and receiving advice in how to support declaration. We have arranged a training event for November 14, our next staff training day.

Any data or information gathered will be treated in the strictest confidence and can remain anonymous. It will be used to remove barriers, recognise gaps in provision and to create a starting point from which to measure progress.

How this will be collected will be in a choice of formats. I have included a questionnaire with this letter if that is your choice. I shall be available for some 1:1 interviews and I shall also be arranging focus groups.

I do hope you feel able to contribute in this consultation activity, but respect your wish to decline.

I look forward to hearing from you. Please return your questionnaire in the Freepost enveloped attached.

Yours sincerely

Pauline Hitt
Head of Equality & Diversity

Questionnaire for staff

Recent disability legislation has placed a duty on all public bodies to actively promote disability equality. In response to this, certain public bodies, including colleges, are required to publish a **Disability Equality Scheme** and an **Action Plan**.

The involvement of disabled staff and students in developing the Scheme, determining its priorities and helping to shape the Disability Equality Action Plan, are crucial.

We now wish to consult staff more widely and invite all staff to complete the **Disability Equality Questionnaire for Staff**. We are particularly interested in the experiences and views of **disabled staff**. Non-disabled staff who are line managers or who work with **disabled staff** members may also have useful experiences to contribute and we would also like to hear your views.

Confidentiality. We are aware that you may not have disclosed your disability to the college and may not wish to do so. This is why this questionnaire is anonymous, unless you chose to provide your name. The views you express here will be kept entirely confidential within Student Services. Your responses will only be used in an anonymous way to inform the Disability Equality Scheme.

If you are a disabled person and would like any **advice or information** on the support that may be available for disabled staff, then please contact your Head of Department.

We will be following up this questionnaire with some **disabled staff focus groups**. For more information about these please see the DES page on the staff intranet.

Disability equality questionnaire for staff

Your experience/observations

Question 1

Is there anything that the college could be doing to make it easier for staff to disclose a disability?

Question 2

What do you think that the college should change to improve the experience of its disabled staff? Your answer will help us to prioritise the actions we need to take.

Question 3

What barriers do you experience in your workplace that prevent you carrying out your job or hinder you carrying out your job?

Question 4

What do you think that the college is doing well to support the needs of its disabled staff?

Question 5

From your experience and/or observations, how well do you feel that the following support the needs of disabled staff?

	Very un-supportive	Un-supportive	Neutral	Supportive	Very supportive
	1	2	3	4	5
Heads of Department					
Line managers					
Work colleagues					
Human Resources					
Other staff					

Question 6

From your experience and/or observations, how well do you feel that the following college processes, activities or facilities meet the needs of disabled staff?

If you feel that you have no knowledge of a certain topic, just leave a blank row. You can make comments on the topics below in Q13 and Q14.

	Very poor	Poor	Adequate	Good	Very good
	1	2	3	4	5
Job application & interview process					
New staff induction					
Staff development					
Individual adjustments made for disabled staff					
Physical environment					
Disabled parking					
Impact of employment policies and procedures on disabled staff					
Accessibility of official communications from the college					
Annual Review process					
Personal workspace (PC, desk etc)					
Access to advice and support in relation to disability issues					
Other (please give details)					

Question 7

If you feel that any of the activities or facilities mentioned in Q6 are a barrier to the participation of disabled staff, please give details of how and why.

Question 8

If you feel that any of the activities or facilities mentioned in Q6 are of benefit to the participation of disabled staff, please give details of how and why.

Disability status and disclosure

Question 9

A disabled person is defined in the Disability Discrimination Act as someone with a physical or mental impairment that has a substantial and long-term impact on their ability to carry out day-to-day activities. This can include people with long-term health conditions such as epilepsy, those with mental health difficulties and people with specific learning difficulties such as dyslexia.

Having read this statement, do you consider yourself to be covered by the definition?

YES

NO

Question 10

If you answered 'YES' to Q9, please indicate the nature of your disability - tick as many boxes as are applicable to you. This question is optional.

Dyslexia or other specific learning difficulty

Physical disability (eg which affects mobility or manual dexterity)

Long-term progressive condition (e.g. cancer, HIV)

Blind or partially sighted

Autistic Spectrum Disorder (incl. Asperger's Syndrome)

Long-term recurrent condition (e.g. sickle cell condition, epilepsy)

Deaf or hard of hearing

Mental Health Difficulty

General learning disability

Other (please state)

Question 11

Did you declare a disability when first applying to the college for a job?

- YES NO (go to Q12 and Q13)
-

Question 12

If you answered 'NO' to Q11, what were your reasons for not disclosing? Please tick as many of these that apply to you

- I did not have a disability at the time
- I feel this information is private and not work-related
- I did not consider it to be relevant to my job
- I was unaware of the benefits of doing so
- I do not remember being given the opportunity
- I was concerned I might be discriminated against

Another reason, please specify.....

Question 13

If you answered NO to Q11, have you disclosed your disability to the college since you started your employment?

- YES NO

If Yes, please state why you then disclosed:

Question 14

If you disclosed your disability since taking up your employment, to whom did you disclose your disability?

- My line manager
- Human Resources
- A work colleague
- Head of Department
- Other, please state:
-

Question 15

In discussing your disability, did you request support?

YES NO

Question 16

Did you receive the help you requested?

YES NO

Question 17

If YES, how would you rate this response?

Poor Average Good Excellent

If you would like to, please provide further details about the response you received:

Question 18

Has this questionnaire missed any important issues or topics that affect the experience and participation of disabled staff at the college?

If so, what are they?

About You

Are you:

Female Male Academic staff Professional service staff

How long have you worked at the college? _____

Thank you for your time and your contribution.

If you would like to be more involved in the development of the College's Disability Equality Scheme (for example, as a reader of the draft document or by contributing to later reviews of the Scheme), please provide your contact details below and we will be in touch with you.

Name

.....

E-mail address

.....

Department

.....

Telephone number

.....

Distributed by Student Services on behalf of the Disability Equality Working Group established under the Equality & Diversity Steering Group

Useful Websites and publications

Disability Rights Commission

http://www.drc-gb.org/employers_and_service_provider/disability_equality_duty.aspx

UNISON guidance on the public sector duties

<http://www.unison.org.uk/equality/duties.asp>

UNISON equality news in FE

<http://www.unison.org.uk/education/further/equal.asp>

UCU Web pages for disabled members

<http://www.ucu.org.uk/index.cfm?articleid=1938>

UCU Enabling not Disabling

http://www.ucu.org.uk/media/pdf/4/8/ucu_enablingnotdisabling_1.pdf

Learning and Skills Council Virtual Learning Environment on the DED

<http://www.lsncommunity.org.uk/vle/research/>

Commission for Disabled Staff in the lifelong learning sector

www.niace.org.uk/disabledstaffcommission

Learning and Skills Network guidance on disability

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

'I believe it important to understand other disabled people's lives, am committed to representing the full and diverse views and interests of deaf and other disabled people, and am a strong advocate for rights, independent living and choice.

I don't see myself deaf or disabled, I just belongs to linguistic minority.'

Michelle Jones, City College Manchester

