
EQUALITY BRIEFING:
DISABILITY EQUALITY

Equality Briefing: Disability Equality

This briefing has been produced to help branches and local associations progress disability equality in the workplace.

In this briefing:

- New national agreement on disability equality, including disability leave.
- Revision of Disability Equality Schemes
- Update on case law

1. New national agreement on disability equality

UCU has signed up to a new national joint agreement on guidance for disability equality. This agreement is for all FE colleges in England and Wales and has been agreed with the Association of Colleges. It replaces the previous FE agreement on disability equality. Although it is aimed at FE colleges, it could be implemented in higher education institutions with very little amendment.

This new agreement is groundbreaking as, in addition to outlining employers' statutory responsibilities under the Disability Discrimination Act, it includes a commitment to the introduction of disability leave and the counting of disability related absence separately to sickness absence.

The agreement is available as an appendix to this briefing document.

The local implementation of this agreement is a priority for UCU's national disabled members committee and help is available for branches and local associations wishing to negotiate the local implementation of the agreement. A commentary with additional information about the importance of negotiating disability leave and disability related absence provisions is set out below.

Disability discrimination law and sickness absence procedures

It is important for employers to take into account that disability discrimination law recognizes that in order to achieve equality of outcome, it is often necessary to treat disabled people **more favourably**. Employers are therefore not necessarily doing the right thing if they treat everyone the same. For example, by sticking to trigger points in sickness absence procedures that apply equally to all workers, employers risk treating disabled employees unfairly and, possibly – if they have failed to take account of their obligations to consider making reasonable adjustments - unlawfully.

This is the principal reason why UCU argues that disability related absence and disability leave should be counted separately from sickness absence monitoring. This will protect disabled members from facing formal proceedings, including the threat of losing their jobs, due to the misapplication of sick leave procedures.

Both policies are proposed in the DRC Code of Practice (see below), but neither are a legal obligation (although an employer may have to permit disability leave as a reasonable adjustment for individual employees). This is why the new national agreement is so warmly welcomed by UCU's national disabled members committee. However, it will only be implemented if each branch and local association negotiates their own local agreement.

The DRC Code of Practice

The DRC Code of Practice on Employment and Occupation does not have statutory force but must be taken into account by courts and tribunals when relevant.

Relevant and useful parts of the Code relating to disability leave are set out below:

Para 5.18

An example of a reasonable adjustment: "allowing the person to be absent during working hours or training hours for rehabilitation, assessment or treatment"

"Example

An employer allows a person who has become disabled more time off during work than would be allowed to non-disabled employees to enable him to have rehabilitation training. A similar adjustment would be appropriate if a disability worsens or if a disabled person needs occasional treatment anyway."

Para 5.20

"As mentioned above, it might be reasonable for employers to have to take other steps, which are not given as examples in the Act. These steps could include allowing a disabled employee to take a period of disability leave.

Example: An employee who has cancer needs to undergo treatment and rehabilitation. His employer allows a period of disability leave and permits him to return to his job at the end of the period."

Checklist for branches and local associations

1. Ask your employer to adopt the disability equality agreement, including the introduction of provisions for disability leave and disability-related absence. You may want to suggest that the introduction of such a policy is included as one of the action points in your revised Disability Equality Scheme (see below).
2. Involve disabled members in the negotiation of the agreement, including how the introduction of disability leave and disability related absence will work in practice.

3. Ensure all local procedures which may impact detrimentally on disabled staff have been subject to robust impact assessment (eg sickness, capability)
4. Keep your regional office and UCU's national equality team informed of progress. If you want additional help and support when negotiating the policy, contact your regional official or Rachel Curley, National Head of Equality rcurley@ucu.org.uk

2. Revision of Disability Equality Schemes

The Disability Equality Duty requires public bodies to revise and publish a new Disability Equality Scheme (DES) not later than the end of the period of three years beginning with the date of publication of its first Scheme; and subsequently at intervals of not more than three years beginning with the date of publication of the last revision of the Scheme' [Regulation 2(4), Disability Discrimination Regulations 2005; www.opsi.gov.uk/SI/si2005/20052966.htm].

This means that, for most public bodies, a revised DES is required by 4 December 2009.

The Equality and Human Rights Commission (EHRC, 2009) states the purpose of revising a DES as:

- to ensure priorities are refocused to tackle the most relevant and significant issues to bring about disability equality
- to base actions on current evidence and the views of disabled people
- to reflect on what has been achieved and focus on where more work is required
- to ensure the Scheme accurately reflects current business and gives attention to areas that have changed since the last Scheme.

In line with the requirements set down in the DRC Code of Practice for Disability Equality Schemes, any DES should include a statement of:

- The way in which disabled people have been involved in the development of the Scheme
- The methods for impact assessment
- The steps the college or university will take to fulfill its general duty (the action plan)
- The arrangements for gathering information in relation to employment and its delivery of education and its functions.

- Universities and colleges are also required to publish a report containing a summary of the steps taken under the action plan, the results of its information gathering and the use to which it has put the information.

There are a number of specific information-gathering measures which must be included in the disability equality scheme:

- The effect of the university's or college's policies and practices on the recruitment, development and retention of disabled employees.
- The effect of the university's or college's policies and practices on educational opportunities available to and achievements of disabled students.
- The extent to which services and functions take account of the needs of disabled people

Checklist for branches and local associations

1. Ensure your branch or local association is involved in the production of the revised Scheme. Note that the DRC Code of Practice states, "Where action is proposed on employment issues the involvement of workplace trade unions will help ensure that all relevant issues are addressed. (para 3.21)".
2. Ask for copies of the evidence and information that will be used to draw up the Scheme and associated action plan, including the last two annual reports; impact assessments; data on recruitment and retention of disabled staff; how the involvement of disabled staff and students has contributed to the development of the Scheme.
3. Ensure your employer is involving disabled people in the production of the Scheme.
4. Ask disabled members what their priorities are for inclusion in the revised Scheme.
5. If you want more help or advice contact your regional office or UCU's national Equality Unit eqadmin@ucu.org.uk

For more information:

The statutory code of practice on the disability equality duty for England and Wales (www.equalityhumanrights.com/uploaded_files/the_duty_to_promote_disability_equality_statutory_code_of_practice_england_and_wales.pdf)

the separate Code for Scotland

(www.equalityhumanrights.com/uploaded_files/the_duty_to_promote_disability_equality_statutory_code_of_practice_scotland.pdf).

Equality Challenge Unit briefing for HEIs:

www.ecu.ac.uk/publications/revising-disability-equality-schemes-briefing

3. Recent case law: meaning of “likely” in the DDA

SCA Packaging Ltd v Boyle, HL, July 2009-08-03

This is a useful judgment which makes it clear that protection under the DDA is broader than set out in the statutory guidance.

The case will be important for people with conditions whose conditions fluctuate or which are controlled by treatment, or where the prognosis is not certain.

Under the definition of disability within the DDA 2005 an individual must usually show she or he has “ a physical or mental impairment which has a substantial and long term adverse effect on his or her ability to carry out normal day to day activities”.

The word likely appears a number of times. For example, para 2(1) states that the effect of an impairment is a long-term effect where the period for which it lasts is **likely** to be at least 12 months; or it is **likely** to last for the rest of the life of the person affected, and para 8(1) states that where a person has a progressive condition , “he shall be taken to have an impairment which has a substantial adverse effect if the condition is **likely** to result in his having such an impairment.”

The House of Lords has extended the definition of “likely” from “more likely than not” to “could well happen”

This judgment should make it easier for individuals to establish a disability under the definition of the DDA. Applying this new definition of likely may make it easier for people who have an impairment or condition which has not yet lasted a year but “could well” last for 12 months or more.

**JOINT AGREEMENT ON GUIDANCE FOR DISABILITY
EQUALITY IN EMPLOYMENT IN
FURTHER EDUCATION COLLEGES**

BETWEEN

THE ASSOCIATION OF COLLEGES (AoC)

AND

ASSOCIATION FOR COLLEGE MANAGEMENT (ACM)

ASSOCIATION OF TEACHERS & LECTURERS (ATL)

GMB

UNIVERSITY AND COLLEGE UNION (UCU)

UNISON

UNITE – THE UNION

[Insert Date]

1. INTRODUCTION

- 1.1 This guidance has been developed jointly to equip Colleges to meet their obligations under the Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005, the European Framework Directive 2000, and other relevant legislation. The guidance also reflects recommendations made by the Commission for Disabled Staff in Lifelong Learning.
- 1.2 The College undertakes as a minimum to recognise as disabled all those who fall within the definition given in the Disability Discrimination Act i.e. "A person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long term adverse effect on his ability to carry out normal day-to-day activities".
- 1.3 This guidance is based on the knowledge that disabled people are almost twice as likely as non-disabled people to be unemployed, that disabled workers are less likely to work full-time, and that 1 in 8 of the working-age population is disabled¹.
- 1.4 The 2005 Act extends the positive duty on employers to promote equality and good relations between members of different groups to cover disability. This document is intended to support colleges in promoting disability equality.
- 1.5 The College recognises that the Disability Equality Duty (as introduced by the 2005 Act) requires a proactive approach to mainstreaming disability equality into all policies, procedures, decisions and activities.

2. OUR COMMITMENT

- 2.1 The College celebrates and values the diversity of its workforce. It believes that the College will benefit from employing both disabled and non-disabled people at all levels of responsibility, and across all areas of work. This will also provide role models across the curriculum and the various functions of the College. The College is committed to equality of treatment for all employees. This will apply to the operation and implementation of all its employment policies. The College will treat all employees with respect and dignity, and seek to provide a positive working environment free from disability discrimination, harassment or victimisation.
- 2.2 The College will seek not only to eliminate disability discrimination, but also to create a working environment based on good relations between disabled people and non-disabled people. To this end, the College undertakes to provide diverse images in any material which it produces, including positive images of people with a range of impairments. The aim is to create a positive inclusive ethos with a shared

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

The figure of 1 in 8 is taken from the 2001 Census.

commitment to challenging and preventing stereotyping, prejudice and disability discrimination, to respecting diversity and difference, and to encouraging good relations between disabled people and non-disabled people.

- 2.3 The College will involve disabled people in the development and monitoring of its Disability Equality Scheme (DES).²
- 2.4 The College will work towards the elimination of prejudice, harassment, bullying and discrimination, whether overt or covert, and will seek to ensure that all staff have equal access to the full range of college facilities.
- 2.5 Most of the detail of this policy relates to those staff who have declared an impairment. However, the College will seek to fulfil its duty of care to those staff who do not disclose an impairment, but who the college as employer could reasonably have been expected to know of the existence of such an impairment.
- 2.6 The College will work with trade unions and staff networks including disabled staff to endeavour to create a positive and secure culture for disclosure.
- 2.7 Where information is divulged in confidence, every attempt will be made to respect this.
- 2.8 The College will accept all recommendations made after an assessment carried out under the Access to Work Scheme, and will make all the required contributions towards the cost of providing the recommended reasonable adjustments.
- 2.9 The College will ensure that there is no discrimination in its policies, procedures or actions including discrimination for association.

3. OUR LEGAL DUTIES

- 3.1 The College undertakes to fulfil all the legal duties put upon it by:
 - The Disability Discrimination Act 1995, the Disability Discrimination Act 2005 and the associated Guidance and Codes of Practice, especially “The Code of Practice – Employment and Occupation” and “The Duty to Promote Disability Equality – Statutory Code of Practice”. This means there will be no discrimination against staff or applicants on grounds of disability status in access to employment, training, working conditions, terms of employment, treatment at work, promotion or dismissal. The College undertakes to fulfil its duty to make reasonable adjustments to enable staff to do their work, and not to treat disabled staff less favourably than non-disabled staff.
- 3.2 The College agrees that there are six inter-related legal requirements to the “general duty” or “disability equality duty (DED)”. The College in carrying out its functions, agrees to have due regard to the need to:

² Any reference to Disability Equality Scheme shall be taken to mean Single Equality Scheme where applicable

- Promote equality of opportunity between disabled people and other people
- Eliminate unlawful discrimination
- Eliminate disability-related harassment
- Promote positive attitudes towards disabled people
- Encourage participation by disabled people in public life
- Take account of people's disabilities, even where that involves treating disabled people more favourably than others.

3.3 In line with the specific duties required under the DDA 2005, the College agrees to:

- Publish a Disability Equality Scheme (DES)
- Review the Scheme annually and amend where necessary and renew every three years
- Involve disabled people in the development and monitoring of the Scheme
- Monitor and publish a summary of steps taken under the action plan contained within the Scheme on an annual basis.

4. RECRUITMENT AND SELECTION

4.1 The College will ensure that there is no disability discrimination in the way it recruits and selects staff.

4.2 The College will ensure that:

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

4.2.2 Recruitment materials will be made accessible in the applicant's preferred format;

4.2.3 Interviews will be fully inclusive, and reasonable adjustments will be made to allow disabled candidates to attend and participate in the interview without being placed at a disadvantage.

4.3 The College undertakes that :

- Every effort will be made to redress any under-representation of disabled people by positive action
- All advertisements will include a proactive commitment to equality and include a reference to the interview guarantee
- All applicants for a vacant post who indicate on a separate form with the application form that they are disabled, and who meet the essential criteria in the person specification shall be guaranteed an interview as stated in the advertisement.

5. APPOINTMENT

5.1 If a candidate is considered suitable for appointment the College will make reasonable adjustments to allow that candidate to do their job.

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

- Adjusting the premises
- Allocating some of the duties to another person
- Altering working hours
- Allowing time off for treatment, rehabilitation or therapy
- Making College materials available in the preferred format
- Acquiring or modifying equipment
- Supplying additional training (providing training in the use of particular pieces of equipment unique to the disabled person and ensuring this training is held at accessible venues).
- Altering communication in the workplace (providing a sign language interpreter, reading to a visually impaired person at particular times during the day, working with the previous postholder for a transitional period, providing noise level meters, overhead projectors, laptop facilities etc).

5.2 The College will discuss with the new appointee and relevant experts what reasonable adjustments are needed. If there is not sufficient expertise available in the college to deal with a particular reasonable adjustment, the College will seek the advice of the Disability Employment Adviser under the Access to Work scheme or other specialist advisers.

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

6. CAREER DEVELOPMENT

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

6.2 The College undertakes that all the training and staff development that it provides will be fully accessible to all, including venues, materials and provision of support staff if required.

6.3 An appropriate manager or the line manager of staff who have declared they are disabled will ask such staff at least once a year if their needs have changed, and if any steps need to be taken to ensure that their development needs are met.

7. RETENTION

7.1 The College undertakes to make every effort to ensure that an employee who acquires an impairment which makes it impossible for them to do their existing job and who wishes to remain in employment is enabled to do so. Should the employee wish to be redeployed to a vacant job they can do, the College undertakes to make every effort to redeploy them, including providing training and adjustments where

necessary. Case law has established that redeployment to a higher graded post can be regarded as a reasonable adjustment.

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

8. DISABILITY LEAVE

- 8.1 An employee who acquires an impairment and declares this to the College should have the right to a meeting with their line manager, work college or their trade union representative, and a member of personnel/human resources staff. At this meeting, the needs of the employee should be discussed and agreed. Medical and other advice might also be sought about the employee's needs, which might include a period of paid disability leave.
- 8.2 It is good practice to consider giving a reasonable period of paid disability leave to individuals where the appointment, activity or training cannot be taken outside of work time. The period of disability leave should be agreed between the employee and line manager, with assistance from a work colleague or trade union representative as appropriate, taking account of the need to balance each individual's circumstances with the needs of the College. This period of leave should be regularly reviewed to ensure that the agreed arrangements remain fit for purpose. Examples of when this leave may be appropriate include:
- A period where an employee is well but requires training to work with a guide dog or using new equipment;
 - A prolonged period of treatment or rehabilitation;
 - A period of time to recuperate from treatment;
 - A period of time to complete an assessment relating to adjustments;
 - A period where the employee is waiting for the College to complete the making of reasonable adjustments.
- 8.3 Disability leave will not be included for the purposes of assessing performance, promotion, attendance, selection for redundancy, and similar issues unless there are exceptional circumstances in relation to the agreed leave.

- 8.4 Further detail on the operation of disability leave is contained in Appendix 1.

9. DISABILITY-RELATED ABSENCE

- 9.1 If a person is absent due to illness or injury for an impairment related reason, payment for the leave comes from the entitlement to sickness pay, but it should be recorded as disability-related absence. Whilst this should not exceed the maximum sick pay allowance, it is acknowledged that there may be circumstances where it is a reasonable adjustment to extend the period of leave beyond the employee's sick pay entitlement.
- 9.2 It may be a reasonable adjustment to consider disability-related absence differently under the College's normal sickness absence procedure. For example it may be

reasonable to consider using different trigger points for the scheduling of sickness review meetings where the absence is disability related

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

10. DISMISSAL

- 10.1 The College will ensure that there is no disability discrimination in relation to dismissal of staff. In particular, should a redundancy situation occur, it will ensure that impairment is not a factor in the selection of those to be made redundant. For staff who have disclosed an impairment neither disability-related sick leave nor disability leave shall be used as a criteria for selecting for redundancy.

11. HARASSMENT

- 11.1 Disability harassment is viewed by the College as a very serious offence, which if proven may in certain circumstances lead to the dismissal of a member of staff, or, if an employee is harassed by a student, the expulsion of that student. For details of handling harassment claims, see the Joint Agreement on Guidance for Harassment and Bullying in Employment in Further Education Colleges.

12. MONITORING AND POSITIVE ACTION

- 12.1 The monitoring process will be used to ensure that disabled staff are treated fairly taking into account the fact that the DDA makes provision for more favourable treatment.
- 12.2 To inform the setting of targets [as required by sector surveys] and the measurement of progress in achieving them, the College will collect and analyse the following information:
- Disability profile of employees by grade/salary scale and type of work [e.g. management, teaching, support, childcare, buildings]
 - Job application and selection success rates
 - Type of contract (permanent, temporary agency)
 - Training/Staff Development
 - Staff recruitment, development and promotion
 - Grievances, disciplinary and capability proceedings
 - Satisfaction Surveys and Exit Interviews
 - Data on adjustment solutions.
- 12.3 The College undertakes, once the results of monitoring are available, to consider targets to reduce any disadvantage suffered by disabled employees and the targets will be published annually in an Action Plan. The College may consider mentoring and work shadowing as a means to developing career prospects of disabled staff.
- 12.4 The College acknowledges that disabled people are to be actively involved in the monitoring process. [Monitoring is to be further explained]

13. ENSURING EQUALITY FOR DISABLED PEOPLE

- 13.1 The College is committed to work to eliminate prejudice and discrimination in employment practices, as well as to encourage changes in individual behaviour and attitudes, and ensure equality between disabled and non-disabled people.
- 13.2 If staff monitoring shows that there is an under-representation of disabled people at any level within the college, it will take positive action by reviewing its recruitment, promotion and training practices to ensure they are free of bias, contain no barriers to disabled people and consider advertising in publications more likely to be read by disabled people.
- 13.3 The College recognises that many of the problems experienced by disabled people are due to lack of knowledge of their needs by those around them. The College undertakes to provide disability equality training to all its staff. This will include examination of the appropriate use of language.
- 13.4 The College will ensure that its publications and publicity material promote positive images of disabled people in both language and illustration.

14. PART-TIME WORKING

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

15. DISABILITY EQUALITY SCHEME

- 15.1 In line with the DDA 2005, the College agrees to draw up a disability equality scheme to monitor progress towards achieving equality between disabled and non-disabled people.
- 15.2 The College will immediately take steps to begin implementing the actions set out in the DES with a view to having implemented all actions by the end of the three year period.
- 15.3 The College will proactively seek the active involvement of disabled people in the development and monitoring of the DES. For example this may be achieved by establishing a disabled user's group, a majority of whose members will be disabled staff and students and on which relevant stakeholders such as recognised staff unions and the students union will be represented.
- 15.4 The Scheme will contain the monitoring data and positive action targets described in section 13 and any other information considered relevant.
- 15.5 The College will publish a report annually on the Scheme, with the involvement of disabled people, which will be made publicly available in accessible formats.

16 IMPACT ASSESSMENT

- 16.1 All Colleges are required to carry out impact assessments. All relevant college policies, procedures and practices will be assessed for their impact on different groups of disabled and non-disabled staff and students.
- 16.2 The purpose of impact assessment is both to ensure that a College's decisions and activities do not disadvantage disabled people, and also to identify opportunities to actively promote equality, including consideration of where the different parts of the disability equality duty can be actively built into those policies, procedures and practices.
- 16.3 The College agrees 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.
- 16.4 Information published from impact assessments will be available in accessible formats.

17 DIVISION OF RESPONSIBILITIES

- 17.1 Governors are recommended to try to ensure that the membership of the Corporation includes disabled people.

Governors are responsible for ensuring that:

- The College's strategic plan includes a commitment to disability equality
- Equality training features as part of the College's strategic plan
- They are aware of the Corporation's statutory responsibilities in relation to disability legislation as an employer
- They receive and respond to the disability monitoring information on staff
- The college's Disability Equality Scheme includes reference to employment matters.

- 17.2 The Management Team are responsible for ensuring that:

- The College Principal/Chief Executive and Senior Management Team are responsible for taking the lead in challenging discriminatory behaviour in all forms on the part of the managers, staff or learners and creating a positive, inclusive ethos
- They are meeting the College's statutory duties in relation to disability legislation
- All aspects of College policy and activity promote disability equality
- Disability monitoring information is collected and analysed
- The procedures for the recruitment and promotion of staff enshrine best practice in promoting equality
- Targets are set on the recruitment and promotion of staff based upon the analysis of disability monitoring information and best practice
- The College's publicity materials present appropriate positive and non-stereotypical messages about disabled people

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

17.3 Staff are responsible for ensuring that:

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

18 PUBLICISING THE COLLEGE'S POLICY AND PROGRESS

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

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

18.1.2 A summary of the results of our monitoring information will be included in our annual report and annual financial statements, where this does not breach individual confidentiality.

18.2 To staff:

18.2.1 All staff will receive a full copy of the policy as part of the Employee Handbook or College intranet

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

18.2.3 A summary of the results of our monitoring information will be included in the appropriate College publication (e.g. newsletter). Any published information will have due regard for individual confidentiality.

19 COMPLAINTS

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

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

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

- 19.4 If, in the course of their work, College staff experience disability discrimination from members of the public, the College will take appropriate action and provide appropriate support.
- 19.5 Any discriminatory behaviour directed against staff by students will be dealt with under the student disciplinary procedure.

20 REVIEW AND CONSULTATION

- 20.1 The College will review their policy on a regular basis in accordance with legislative developments and the need for good practice, by utilising the College Equality Forum, Disabled Staff Network, or appropriate equivalent body.
- 20.2 As part of the review the Equality Forum will seek and take into account the views of stakeholders including recognised trade unions and appropriate equality bodies (i.e. EHRC).
- 20.3 This agreement will be subject to regular monitoring and review and any amendment will be by agreement within the Joint National Negotiating Forum.

21 IMPLEMENTATION

- 21.1 The College, working in partnership with the recognised trade unions and employee representatives, will seek to ensure that all staffing policies and procedures (e.g. Recruitment and Selection Procedure) are non-discriminatory, and that monitoring and positive action processes are regularly reviewed and monitored.

22 GENERAL

- 22.1 This joint agreement should not be read in isolation, but cross-referenced with all relevant College employment policies.

23 DEFINITION OF JOINT AGREEMENT

- 23.1 The Agreement on this guidance is a recommendation to Colleges relating to Disability Equality in Employment issues.

JOINT AGREEMENT ON GUIDELINES FOR DISABILITY EQUALITY IN FURTHER EDUCATION COLLEGES

SIGNATURES OF THE PARTIES TO THIS AGREEMENT

AoC

ACM

ATL

GMB

UCU

UNISON

UNITE

Date of Commencement of this Agreement:

This appendix should be read in conjunction with the Joint Agreement on Guidelines for Disability Equality in Further Education

Appendix One – Disability Leave

1. Disability leave is time off work for a reason related to someone's impairment and examples are provided in clause 8.2 . It may be for a long or short period of time, and may or may not be pre-planned. The effect of an impairment depends on the individual and their circumstances. To accommodate this requires some flexibility, so employees may need to take planned disability leave or unplanned disability leave.
2. Disability leave is quoted as an example of a 'reasonable adjustment' under the Disability Rights Commission Code of Practice on Employment related to the Disability Discrimination Act.
3. All employees who are disabled using the definition in the Disability Discrimination Act 1995 should have access to disability leave. It is worth noting however that many such employees will not need to take disability leave.
4. If time off work due to ill health is for a reason that is not related to an impairment, then it will be recorded as sickness absence.
5. Planned disability leave is agreed in advance. It may be a number of individual days each year that a disabled person needs to be absent from work. Typically this would be for treatment, rehabilitation or assessment related to their impairment. It may also be a longer block of time needed for a specific reason. An employee who needs to take planned disability leave will meet with their line manager or a relevant member of the management team on a confidential, individual basis and discuss what is needed. An example of short term planned disability leave is time off to facilitate training with a guide or hearing dog. Employees may choose to be accompanied to this meeting by a work colleague or trade union representative to provide emotional support.
6. If agreement cannot be reached at this meeting, then the employee may use the college's grievance procedure to resolve the matter.
7. A longer block of disability leave might also be appropriate. This could be so that a newly disabled employee can make changes inside and outside of work; while physical or environmental adjustments are being made to an employees work environment; or if an employee has to undergo a more prolonged period of treatment, rehabilitation or recuperation.

8. It may be appropriate to agree that an unplanned period of leave be classed as “disability leave” rather than disability-related absence under the sick leave scheme. Usually this will be related to a sudden change in the nature or intensity of an impairment which requires action to be taken.
9. Time spent on disability leave will be counted as continuous service for all contractual benefits.
10. Medical information about employees will be kept strictly confidential unless they agree to disclosure. Its use will conform to Part 4 of the Information Commissioner’s Data Protection Act Employment Practices Code (Information About Workers’ Health).