

## Employing Disabled People A Guide to Good Practice

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**Consultation History**

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## 1.0 Introduction

### 1.1 Statement and aim

Milton Keynes Hospital NHS Foundation Trust recognises the value of a diverse workforce and is committed to supporting the employment of people with disabilities. It aims to provide support where required and to ensure people with disabilities have equal access to training and development opportunities.

### 1.2 Objectives of the document

The objectives are:

- To ensure that all disabled applicants and staff receive fair and equitable treatment
- to promote recognition of the Trust as an employer supportive of the appropriate needs of disabled people and to maximise the employment opportunities for disabled people
- to assist managers and provide information on recruitment and development of disabled staff
- to ensure that all staff are aware of the Trust's commitment towards disabled people
- to ensure that newly-recruited disabled staff are smoothly integrated into work, meeting any appropriate needs which they have
- to assist staff who become disabled during their employment to adapt to disability, to continue in post wherever possible, or, if this is not possible, to be redeployed or retrained where this is practicable.

## 2.0 Scope of document

### 2.1 Scope

This guidance applies to all staff employed under a contract of employment, or engaged by the Trust to work for them.

### 2.2 The Legal Framework

The Disability Discrimination Act 1995 makes it unlawful for an employer to discriminate against a disabled person for a reason relating to their disability. It introduced laws and measures for the protection of disabled people against discrimination. The Act gives disabled people specific employment rights and places specific obligations on employers, such as making "reasonable adjustments", in order that disabled employees are not treated less favourably or placed at a disadvantage within the workplace.

The Act provides for a separate Code of Practice for the elimination of discrimination in the field of employment against disabled persons or persons who have had a disability.

The Disability Discrimination Act 2005 also clarified and extended the rights of Disabled people both within and outside of the workplace. Wherever possible, the values and intentions of the 2005 Act, the 1995 Act and the Code of Practice have been incorporated into this guide.

In addition to this legislation the Disability Equality Duty (2006) requires NHS Trusts to:

- Actively promote equality of opportunity and eliminate unlawful discrimination and harassment of disabled people; and
- Take steps to meet disabled peoples needs, even if this requires more favourable treatment; and
- Promote positive attitudes and encourage participation by disabled people in public life.

The duty must be considered in relation to the following areas:

- Definition of a Disability
- Roles and Responsibilities of Managers, Employees, Human Resources and Representatives
- Discrimination and How to Avoid it
- Employing Disabled People
- Assisting Employees Who Become Disabled
- Making Reasonable Adjustments
- Redeployment
- Retraining
- Disability Leave
- Retirement of the Grounds of Ill-Health
- Termination of Employment
- Health and Safety
- Further Advice

### **3.0 Definition of Disability**

For the purposes of this guide, it is important to understand the definition of “disability”. The Act defines a disabled person as someone with a physical or mental impairment which has a substantial and long-term adverse effect on that person’s ability to carry out normal day-to-day activities. Whilst anybody who is registered as a disabled person will be treated as having a disability the Act encompasses a much wider group and therefore just because a person is not registered as disabled does not mean that they are not a disabled person for the purposes of either the Act or this guide.

## **4.0 Roles and Responsibilities**

### **4.1 Managers**

Managers are required to be fully conversant with the contents of this guide and to ensure that disabled people are treated in accordance with its provisions.

### **4.2 Employees**

All staff have a responsibility to ensure that they co-operate with initiatives taken to accommodate the employment of disabled people.

All staff have a responsibility to ensure wherever possible they do not treat disabled people less favourably.

### **4.3 Human Resources**

The Human Resources Department is responsible for advising managers on all matters affecting the employment of disabled people, to provide training and support to managers in relation to disability issues and for liaising with the local Disability Employment Advisor, where appropriate.

### **4.4 Representatives**

The Guide has been developed in consultation with the Trade Unions recognised by the Trust and the Staff-Side representatives will be fully involved in its implementation.

## **5.0 The Guidance**

### **5.1 Discrimination and how to avoid it**

A disabled employee or disabled job applicant should never receive less favourable treatment than a person who does not have a disability simply on account of a reason relating to their disability. The only exception to this principle will arise where the reason is material and substantial and no reasonable adjustments to the work or working environment can be made.

Examples of “less favourable treatment” include:-

- refusing to appoint a person because of their disability
- offering lower terms and conditions of employment
- discriminating against a disabled employee in respect of promotional opportunities because they have a disability
- victimising a disabled person for making a complaint.

In addition to the above it is also unlawful for an employer to:

- Subject a disabled person to harassment in relation to their disability
- Instruct or put pressure on another individual to discriminate against a disabled person

As an employer, the Trust will respond positively to its duty under the Act to make reasonable adjustments to accommodate the employment of disabled people. This duty does not require the Trust to make general adjustments to facilitate the employment of disabled people and will arise on a case by case basis. Managers will be required, therefore, to give careful consideration to making appropriate adjustments based on individual circumstances. The cost, benefit and practicality of making the adjustment will be taken into account as part of this consideration.

Reasonable adjustments may be made to either the employment arrangements, or to the working environment.

Examples of adjustments which may be possible/appropriate to implement are listed below:-

- alterations to premises
- allocation of minor duties to another employee
- transfer of the individual to another post
- alterations to working hours
- transfer of the individual to another place of work
- allowing absences during working hours for rehabilitation, assessment or treatment
- the acquisition of appropriate equipment/office furniture, or changes to existing equipment/office furniture
- provision of additional training
- alteration to instructions in reference manuals
- modification of procedures for testing or assessment
- providing a reader or interpreter
- providing closer supervision/support.

External financial support may be sought in appropriate cases.

## 5.2 Employing Disabled People

The Trust has a commitment as a Disability Symbol user to:

- Interview all applicants with a disability who meet the minimum criteria for a job vacancy, and consider them on their abilities
- To ask employees with a disability at least annually what more can be done to make sure they can develop and use their abilities at work
- To make every effort when employees become disabled to make sure they stay in employment
- To take action to ensure other key employees develop awareness of disability needed to meet the symbols requirements
- Each year, to review these commitments and what has been achieved, plan ways to improve on them and let employees know about progress and future plans.

Applications for employment from disabled persons will be welcomed and will be given consideration on the basis of the individual's aptitudes and abilities in relation to the qualifications, skills and other attributes required to do the job. In some cases, it will be necessary for managers to consider applications in an alternative format.

The Human Resources Department will be responsible for notifying the local Disability Employment Advisor of all vacant posts. Wherever possible, this will be done automatically and will supplement usual methods of advertising.

Managers will interview all applicants with a disability who meet the minimum criteria for short-listing.

Managers will ensure that all applicants who have a disability are asked if they require assistance at interview. A pro-forma has been devised for these purposes and is attached at Appendix A.

Where a disabled person has indicated that they require special arrangements at interview, every effort will be made to accommodate this wherever possible and appropriate.

Managers must pay particular attention to the needs of disabled employees when inducting them into the workplace and shall discuss with them any specific requirement or need. The individual will also be asked if they wish colleagues to be informed of their disability and where possible, their decision will be respected. There may be exceptional circumstances, however, where a manager considers that the immediate colleagues of the disabled member of staff have to be advised of the situation. In such cases, prior consultation with the individual concerned will take place prior to disclosure.

Where practicable, managers will make every effort to provide a suitable working environment for those employees requiring special arrangements. This will be done in conjunction with a member of the Human Resources Department who, where appropriate, will be responsible for liaising with appropriate agencies.

Managers will be responsible for discussing with disabled members of their staff any problems or issues which arise in the workplace as a result of their disability. Managers will endeavour to ask disabled employees at least once a year what can be done to make sure that they can develop and use their abilities at work.

Managers must make every effort to assist staff who become disabled during their employment to adapt to disability, to continue in post wherever possible, or, if this is not possible, to be redeployed or retrained where this is practicable. Reasonable adjustments to working arrangements will be considered and implemented, if appropriate.

### **5.3 Assisting Employees Who Become Disabled**

In the event that a member of staff becomes disabled and is unable to continue in the post which they hold at that time, the Trust recognises its duty, both legal and moral, to attempt to find suitable alternative employment. Where this proves impractical, the Trust's procedure for dealing with members of staff who become incapable of continuing in employment due to ill-health will be followed. There are a number of options available:-

- making a reasonable adjustment to current working arrangements or working environment
- redeployment
- retraining
- disability leave
- retirement on the grounds of ill-health
- termination of employment.

Prior to looking at the options, the manager will need to assess the needs and requirements (if any) of the employee who has become disabled. This should be done in conjunction with an Human Resources Advisor or Human Resources Business Partner and an Occupational Health Practitioner. The assessment will indicate:-

- whether the individual is able to continue in the same or similar job and if any reasonable adjustments may be required to allow them to do so; and
- the type of job that might be suitable if continuation in the same post is not possible; and
- the likely prognosis associated with the disability.

Arrangements may also be made for an assessment at an Employment Rehabilitation Centre which will elicit advice on any special assistance or steps which may be necessary to enable the employee to stay in the same job or to take up a new post, eg special equipment.

Where appropriate, the Trust will engage the services of Access at Work. Appendix B provides further details of the services provided by Access to Work.

#### **5.4 Making a Reasonable Adjustment to Working Arrangements or the Working Environment**

The Trust will give serious consideration to making reasonable adjustments to working arrangements or to the working environment in order to accommodate a disabled member of staff. Managers will have to consider both the benefit which the alteration will have for the individual, together with the costs of implementing the measure - (including any financial costs, any disruption caused, the ease of making the change, and the available resources). External financial support may be available in certain cases.

#### **5.5 Redeployment**

Redeployment or transfer to a different post in the Trust with suitable duties and responsibilities will be considered in light of the following:

- the job opportunities available
- the entry qualifications and skills required
- the suitability of the individual for redeployment to the available job opportunities.

Wherever possible and where appropriate newly disabled individuals will be given priority in consideration of their application for redeployment into any suitable vacant post.

## **5.6 Retraining**

Where retraining is appropriate, those individuals wishing to be considered for retraining will be seen by their manager and a member of the Human Resources Department. All options will be discussed and an assessment made of the suitability and appropriateness for retraining in that particular case.

## **5.7 Disability Leave**

Problems may arise in situations where an individual remains unfit for work having exhausted their full entitlement to paid sick leave, but where it is anticipated that the individual will be fit to return to work in the not too distant future. In such circumstances, and where the extended period of absence is expected to be of a relatively short duration, a period of Disability Leave may be granted, without pay, and the post kept open. This will usually be for a period of no more than 6 weeks and will begin on the date the sick pay expires. Should the member of staff remain unfit to return to their current post at the end of the agreed period, the Trust may consider the termination of the employment contract on the grounds of capability due to ill-health where appropriate. Reference has been made to this in the Trust's Management of Sickness Absence Policy.

## **5.8 Retirement on the Grounds of Ill-Health**

Employees who are members of the NHS Pension Scheme may be eligible to apply for early retirement on the grounds of ill-health. The individual will receive advice from both the Human Resources Advisor or HR Business Partner involved with the case and the Trust's Pensions Officer.

## **5.9 Termination of Employment**

This option will only be used when all other options have been explored and the Trust is left with no alternative other than to terminate the individual's contract on the grounds of capability due to ill-health.

## **5.10 Health and Safety**

The Trust expects all managers and other staff with specific health and safety responsibilities to ensure that appropriate precautions are taken so that a disabled employee can do a particular job safely and will be safe in the case of an emergency, such as a fire.

## **5.11 Further Advice**

Both practical advice and guidance are available from the Human Resources Department. Please contact an HR Business Partner or an HR Advisor for an appointment.

## 6.0 Audit and monitoring Criteria

<b>Document Audit and Monitoring Table</b>	
<b>Monitoring requirements:</b>	<ul style="list-style-type: none"> <li>a) The usage of this policy and procedure is monitored by the Human Resources Department.</li> <li>b) Equal Opportunities data for disabled staff is monitored by the Human Resources Department.</li> <li>c) Human Resources Department in conjunction with the Occupational Health Department will maintain records of staff who require adjustments, redeployment and retraining.</li> </ul>
<b>Monitoring Method:</b>	<ul style="list-style-type: none"> <li>a) The data is monitored on an ongoing basis and reports are provided to appropriate committees.</li> <li>b) Statistics</li> </ul>
<b>Monitoring prepared by:</b>	<ul style="list-style-type: none"> <li>a) Andrea Chown, Deputy Director of Human Resources</li> <li>b) Adam Cragg, HR Business Partner</li> <li>c) Sue Fenton, HR Business Partner</li> <li>d) Lynsey Banfield, Human Resources Advisor</li> <li>e) Tara O'Sullivan, Human Resources Advisor</li> <li>f) Human Resources Administrator</li> </ul>
<b>Monitoring presented to:</b>	<ul style="list-style-type: none"> <li>a) Equality and Diversity Steering Group</li> <li>b) Board of Directors</li> <li>c) HR Forum</li> </ul>
<b>Frequency of presentation:</b>	<ul style="list-style-type: none"> <li>a) Equality and Diversity Steering Group – Equal Opportunities data presented quarterly</li> <li>b) Board of Directors – Equal Opportunities data presented annually.</li> <li>c) HR Forum presented annually</li> </ul>

## 7.0 References

Disability Discrimination Act 1995  
 Disability Discrimination Act 2005  
 Disability Equality Duty 2006  
 Milton Keynes Hospital (NHS) Foundation Trust, (Current), Management of Sickness  
 Absence Policy  
 Milton Keynes Hospital (NHS) Foundation Trust Single Equality Scheme

## 8.0 Equality Impact Assessment

This document has been subject to an Equality Impact Assessment in accordance with the Trust's Single Equality Scheme.

No detailed action plan is required. Any specific issues raised relating to equality will be appropriately addressed through the monitoring processes which oversee the implementation and effectiveness of this document in practice.

## 9.0 Healthcare Standards

This document addresses the criteria outlined in the Healthcare Standards for Acute Trusts under the following domains.

Domain	Evidence
Safety	<p>The implementation of this policy will support the health and safety of staff.</p> <p>It will aim to provide a safe working environment, which will prevent or reduce the risk of harm to patients and the public.</p>
Governance	<p>The implementation of this policy will support the health and safety of staff.</p> <p>It will aim to provide a safe working environment, which will prevent or reduce the risk of harm to patients and the public.</p>
Care Environment and Amenities	<p>The implementation of this policy will support the health and safety of staff.</p> <p>It will aim to provide a safe and secure working environment, which will protect patients, staff, visitors and their property and promote patient and staff well-being, meeting patient's needs and preferences and staff concerns.</p>

## 10.0 Dissemination

This Policy and Procedure will be placed on the Trust's Intranet site. It can be accessed via the following route:

- Homepage of the Trust's Intranet
- Departments
- HR
- Policies

It will also be placed on the Trust's central database and Quality Management System (Q-Pulse).

## 11.0 Overall responsibility

The Director of Human Resources has overall responsibility for the review and update of this policy.

## 12.0 Attachments

Appendix A: Assistance for Interview Form

Appendix B: Access to Work Information

## Appendix A: Assistance for Interview Form

### ASSISTANCE FOR INTERVIEW

**We are working towards Equal Opportunities in Employment and we welcome applications from disabled people**

To ensure we do not create any barriers in our selection process and to help us implement our equal opportunities policy effectively, please let us know if you would like us to provide any particular assistance for your interview, such as:

**Please tick:**

- Induction Loop
- Sign language interpreter (type \_\_\_\_\_ )
- Keyboard for written tests
- Someone with you at the interview (e.g. speech facilitator)
- Car parking
- Assistance in and out of a vehicle
- Wheelchair access
- Accessible toilet facilities
- Other assistance (please specify) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If you have any questions about your specific needs at the interview or would like to give us more information, please contact \_\_\_\_\_**

## Appendix B: Access to Work Information

### Access to Work

#### What is Access to Work?

If you are thinking about recruiting a disabled person, or an existing employee becomes disabled, you will know they have the skills and potential to do the work, but there may still be practical issues to overcome.

Access to Work (AtW) is available to help address any such issues. It offers practical advice and help in a flexible way that can be tailored to suit the needs of an individual in a particular job. AtW does not replace the normal responsibilities of the employer to implement Health and Safety regulations or replace the responsibilities required by the Disability Discrimination Act.

#### How does it do this?

As well as giving advice and information to disabled people and employers, Jobcentre Plus may pay a grant, through AtW, towards any extra employment costs that result from a person's disability. Only the individual can specifically make a request for AtW to attend the Trust and assist in reasonable adjustments. Managers and members of the Human Resources Department may seek general advice.

#### How does the programme work?

AtW can offer a grant towards the approved costs that arise because of an individual's disability.

For people who are starting a paid job with you, the grant is up to 100% of the approved costs. For those who already work for you, the grant is up to 80% of the approved costs over the first £300.

#### What type of help can be provided through Access to Work?

AtW can help in a number of ways. For example, it can help pay for:

- communicator support at interview (CSI) which meets the full cost of hiring an interpreter to remove barriers to communication at interview
- a support worker, which allows the applicant to use the services of a helper. Types of support might include reading to a visually impaired person, communicating for a hearing impaired person via sign language (other than at interview which is covered by CSI), providing specialist coaching for a person with learning difficulties or helping a person with care needs
- special aids equipment to help a disabled person function in the work place

- adaptation to premises or to existing equipment

- help with the additional costs of travel to, or in, work for people who are unable to use public transport.

### **How are the disabled person's particular needs assessed?**

The AtW Adviser will normally speak to you and your employee to arrive at the most effective solution. In the majority of cases, this can be done over the telephone; however, a visit can be arranged if necessary. Sometimes specialist or technical advice may be needed, which the AtW Adviser will help arrange.

### **How long will it take to put the assistance in place?**

We aim to get you the help that you need in the shortest possible time. However, if it is likely to take some time, the AtW Adviser will explore temporary alternatives with you, for example a support worker or reader, while the permanent solution is sorted out.

### **Who will purchase the help needed?**

It is usually you, the employer, who arranges to purchase the agreed support and then you claim back the grant from AtW.

### **How much is the Access to Work grant?**

Access to Work makes grants towards costs. If you take on an unemployed person or have recruited someone less than six weeks ago, the grant is up to 100% of the approved costs approved by the AtW Adviser. Whatever the employment status of the applicant, AtW pays up to 100% of the approved costs of help with:

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

AtW also pays additional travel costs incurred due to a disability. For people working for an employer, and who have been in the job for six weeks or more and need special equipment or adaptations to premises, AtW pays a proportion of the costs of support, as follows:

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

All help is for a maximum period of three years after which the AtW Business Centre will review the support and the circumstances. Remember, Access to Work is available when additional costs are incurred because of a disability. It cannot be used to provide support usually provided by employers or required under legislation for all their employees.