

# The Newcastle Upon Tyne Hospitals NHS Foundation Trust

## Disabled Persons Policy

Effective: April 2011

Review: April 2013

### 1. Introduction

- 1.1 The Trust's overall responsibility is to provide a safe working environment for all of its employees, and is committed to providing employment opportunities for disabled persons and through training and practical assistance to support their continued employment.
- 1.2 Employees who become disabled will be given help and encouragement to maintain their current post, or if appropriate, support in retraining for other posts. The Trust will continue to develop processes to ensure equality of opportunity for disabled applicants and employees.
- 1.3 The Disability Discrimination Act 1995 provides a right to people with disabilities not to be discriminated against in employment, a central component of this right being the duty on employers to make "reasonable adjustments" to overcome the practical effects of a disability.
- 1.4 The Trust accepts that it has a social and moral obligation in addition to the legal requirement to play a significant role in providing for the employment of people with disabilities
- 1.5 The Trust is committed to employing people with disabilities where appropriate, and:
  - Guarantees an interview to people with disabilities who meet the minimum criteria for a job vacancy.
  - Consults employees with disabilities about how they can develop and use their abilities at work.
  - Makes every effort when employees become disabled to retain them in employment.
- 1.6 This policy and associated procedures is designed to promote equal opportunities for employees and potential employees with disabilities, and applies to all employees, and applicants.

### 2. Scope

This policy has been drawn up to give Trust employees and managers support and advice in accordance with the Disability Discrimination Act 1995.

### **3. Policy Statement**

- 3.1 The Trust supports all measures taken to prevent discrimination against people with disabilities and will support their full integration into the workplace.
- 3.2 In addition, the Trust accepts the Disability Discrimination Act as a legal framework for introducing rights for people with disabilities in employment. It recognises, however, that the Act is only the beginning and acknowledges its responsibility as an employer for ensuring that the letter and spirit of the Act is successfully implemented.
- 3.3 The key to the successful employment of people with disabilities lies in the matching of jobs to people. This involves making an assessment both of the types and degree of disability and of the jobs individuals can consequently undertake.
- 3.4 To assist the matching process job content can sometimes be modified and equipment redesigned, and disabled employees can be encouraged to adapt to jobs through the assistance of training and specialist medical advice.
- 3.5 Managers, other staff involved in recruitment, and all employees, must adhere to the Trusts policy towards the employment and redeployment of those with disabilities and make themselves aware of the measures, which the Trust is reasonably prepared to take to accommodate them.
- 3.6 The Trust, through its Human Resources Department, may liaise with the Disablement Employment Adviser within the Employment Service and with the representatives of other relevant bodies.

### **4. Definitions**

- 4.1 In the context of this policy, 'discrimination' means to treat a person with a disability less favourably than others for reasons relating to that disability or to failure to make reasonable adjustments.
- 4.2 The Trust has a duty to make adjustments to the role, equipment, place of work, etc to enable the person with the disability to be able to carry out the job.
- 4.3 'Reasonableness' depends on a number of factors including cost/benefit analysis, resources available, practicability and whether or not the adjustment would achieve the required effect.

### **5. Key Responsibilities for Managers and Human Resources in Practices to Promote Equality**

- 5.1 Under the DDA, employers are responsible for the actions of their employees in the course of their employment. As with other forms discrimination, the only defence an employer can have is to show that all-reasonable steps have been taken to prevent employees acting in an unlawful manner.
- 5.2 Advertisements

Advertisements are monitored centrally to ensure that they do not, directly or indirectly, suggest that applicants with disabilities will not be considered or that able bodied applicants may be preferred.

### 5.3 Applications

- The Trust job application form has been the subject of consultation with the organisation and takes into account current disabled person's legislation.
- The Trust's Application Form carries a description of the 'criteria for classification as disabled' and a question 'Do you consider yourself to have a disability?'
- The Human Resources Department will bring to the attention of those drawing up the shortlist, any applicant with disabilities who must be given an interview if they meet the essential criteria as laid down for the role. Any rejection on the grounds of not meeting the essential criteria is monitored by the Human Resources Department.

### 5.4 Job Description/Person Specifications

Managers will ensure that all task and skill requirements can be justified and that they are described as accurately as possible.

Everyone involved in selection will consider reasonable adjustments - for example:

- Could the hours be altered?
- Can the premises be more accessible?
- Can work equipment be replaced or modified?

### 5.5 Interviews

- All disabled candidates are asked whether they require any special arrangements to facilitate the interview.
- At the interview, questions will only be concerned with the job, and the candidate's relevant skills and abilities. The question of disability should only be raised in a positive context.
- Questions will not be asked based on assumptions about the negative affects of an individual's disability.
- Where appropriate, the question of "reasonable adjustment" will be explored in a positive manner.
- Assessment of a candidate with a disability will be of their probable performance in a job **once any reasonable adjustment has been undertaken.**

- Selection decisions will be made on merit.

## 5.6 Induction

Arrangements will be made (including seeking assistance from external agencies as appropriate) to ensure that a new employee receives appropriate support in adjusting to various aspects of the new job. All managers and employees will be given appropriate information and assistance to encourage integration of the new team member (e.g. provision of relevant information/guidance in consultation with the employee).

## 5.7 Training

- Reasonable adjustments will be made to ensure that employees with disabilities have equal access to training opportunities. In addition will be encouraged to undertake training, which will assist them in gaining promotion.
- Disability Awareness training is provided for all staff on a regular basis.
- All managers who might reasonably be expected to participate in an interview panel must have attended the Trust's Recruitment and Selection Course.
- Newly appointed and existing disabled employees will receive Health and Safety training via; staff induction and annual Health and Safety courses. If any member of staff requires additional training or advice, this can be sought from the Trust Health and Safety and Occupational Health Departments.
- As a matter of good practice, the Trust will ensure that other staffs, particularly colleagues, are advised of any relevant Health and Safety Issues, which affect disabled employees.

## 5.8 Promotion and Transfer

- Employees with disabilities will be considered for promotion on their abilities.
- No assumptions will be made about person with a disability on their ability to move to an alternative location.
- Reasonable adjustments may be required to facilitate the promotion/transfer of a person with a disability.

## 5.9 Retention of employees with a disability

- Employees who become disabled, or those who already have a disability and have changes in their disability status, will not be treated less favourably than able bodied employees, and every effort will be made to retain them in employment.
- Disability will not be used as criteria for selection for redundancy.

- Disability will not be used as grounds for compulsory early retirement on the grounds of permanent ill health without exploring all reasonable adjustments, which could be made.

#### 5.10 Flexible Working

Various systems of flexible working operate within the Trust. Such systems allow employees to better balance work and home responsibilities while providing management with additional flexibility combined with increased loyalty and motivation.

Flexible working is one kind of adjustment, which may accommodate an employee with a disability. This includes:

- flexible working hours
- voluntary reduced hours
- job share

#### 5.11 Dealing with Health and Safety and Occupational Health Issues

Employees with physical disabilities may require specific safety measures and modification in their work place. If this is the case, the Health and Safety Advisor or Occupational Health Department should be contacted for further advice on workstation/risk assessment requirements and disabled access. In addition guidance and assessment and additional financial support can be sought from external organisations, e.g. P.A.C.T (Placing Assessment and Counselling Teams) and the Employment Service

Disabled employees should report any concerns relating to their disability to their departmental manager who:

- Will investigate and identify any relevant/details/problems.
- Proceed in the light of these findings to resolve the matter, where possible by referral to Occupational Health or seek advice from the Health and Safety Department.
- Where concerns prove to be complex or problematic, the Trust will consult with external organisations, such as Access to Work and P.A.C.T (Placing Assessment and Counseling Teams operated by the Employment Service) when no internal solution can be found.

#### 5.12 Safe System of Work and Assessing Risk

- Managers should establish local procedural guidelines specific to their own departments. These should reflect the Trust's policy and procedures.
- Managers are responsible for appointing a Departmental Risk Assessor, who will ensure that risk assessments are carried out which relate specifically to disabled persons issues within their Department

- In some Departments it maybe appropriate to develop a safe system of work for the employee :-

*Such needs may include:*

- Adaptation of machinery/equipment.
- Relocation of shelving, electrical sockets and switches.
- Changes in lighting levels and types.
- Provision of visual/audible systems of communication.

*In addition further consideration should be given to:*

- The amount of supervision required to complete the task.
- Ensuring that Health & Safety guidelines are understood and adhered to.
- Ensuring necessary actions are carried out by managers and employees in the event of an emergency e.g. fire evacuation training.
- The Trust, in accordance with Part 3 of the Disability Discrimination Act, will take reasonable steps, to provide a safe access to goods, facilities, services and buildings throughout the Trust.

### 5.13 General Responsibilities

- It is the responsibility of everyone involved with any aspect of employment issues to adhere to this policy and supporting practices. Failure to do so will be regarded as a disciplinary offence.
- Individuals must make themselves aware of this policy and how it impacts on their working environment and within the organisation.

## 6. Budgets and Costs

The Department of Employment's Access to Work Scheme may be expected to cover some of the additional cost associated with employing a person with a disability. However, it is likely that there will be costs associated with disability issues not covered by Access to Work; they may also be able to assist in gaining access to various voluntary funded organisations who may be able to assist in the cost, if disability changes are required for an employee

Cost implications of this nature are not, in themselves, an acceptable reason for not making necessary reasonable adjustments.

## 7. Grievances and Victimisation

7.1 Any complaints of discrimination against employees will be pursued through this policy and [Dignity and Respect at Work](#) and [Grievance Policies](#).

- 7.2 Directors, Managers and Departmental Heads will be directly responsible for compliance with much of the Disabled Persons Act. They are involved in recruitment, performance, discipline and welfare.
- 7.3 Managers are also responsible for ensuring that their staff are fully informed on this policy, and its impact on their working environment and within the organisation.

## **8. Further Advice**

This is available from the Trust Human Resources and Occupational Health Departments respectively.

## **9. Monitoring and Review**

Compliance with this policy will be monitored by the Human Resource and Health and Safety Department respectively for the relevant section by assessment and review of Employee/ Manager knowledge base in relation to the policy.

Findings and compliance will be discussed at the Trust Health and Safety Committee and a subsequent action plan will be developed to address any outstanding issues.

## **10. Legislation**

Health and Safety at Work Act 1974  
Disabled Persons Act 1995

Policy Author: - Health and Safety Advisor

THE NEWCASTLE UPON TYNE HOSPITALS NHS FOUNDATION TRUST  
**IMPACT ASSESSMENT – SCREENING FORM A**

**This form must be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.**

Policy Title:	Disabled Persons Policy	Policy Author:	Paul Clancy
		Yes/No?	You must provide evidence to support your response:
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of the following: (* denotes protected characteristics under the Equality Act 2010)		
	• Race *	No	
	• Ethnic origins (including gypsies and travellers)	No	
	• Nationality	No	
	• Gender *	No	
	• Culture	No	
	• Religion or belief *	No	
	• Sexual orientation including lesbian, gay and bisexual people *	No	
	• Age *	No	
	• Disability – learning difficulties, physical disability, sensory impairment and mental health problems *	No	
	• Gender reassignment *	No	
	• Marriage and civil partnership *	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination which can include associative discrimination i.e. direct discrimination against someone because they associate with another person who possesses a protected characteristic, are any exceptions valid, legal and/or justifiable?	N/A	
4(a).	Is the impact of the policy/guidance likely to be negative? <i>(If "yes", please answer sections 4(b) to 4(d)).</i>	No	
4(b).	If so can the impact be avoided?	N/A	
4(c).	What alternatives are there to achieving the policy/guidance without the impact?	N/A	
4(d)	Can we reduce the impact by taking different action?	N/A	

<b>Comments:</b>	<b>Action Plan due (or Not Applicable):</b>
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Name and Designation of Person responsible for completion of this form: Paul Clancy Health and Safety Advisor.....  
 Date: 14/4/2011.....

Names & Designations of those involved in the impact assessment screening process: .....

(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified on this form, please refer to the Policy Author identified above, together with any suggestions for the actions required to avoid/reduce this impact.)