

## **Watford Borough Council**

### **Disability in Employment Policy**

#### **Scope and Purpose**

Watford Borough Council is committed to appointing and retaining the best people to provide an efficient, effective, value for money service to the people of Watford.

The aim of this policy is to ensure that the Council recruits, develops and retains employees with disabilities. This will be achieved by:

- actively promoting equality of opportunity between disabled people and other people
- Eliminating any potential discrimination that is unlawful under the DDA
- Eliminating any harassment of disabled people that is related to their disability
- Promoting positive attitudes and employment opportunities for disabled people
- Taking practical steps to meet disabled people's needs, even if this requires more favourable treatment

This document outlines the Council's policy in relation to disabled people in relation to recruitment and employment. All references to staff/employees in the context of this policy includes permanent and temporary staff directly employed by the Council (including apprentices).

The Council's Equalities and Diversity Policies, Sickness Management Policies, Recruitment and Health and Safety Policies must be considered when using this policy.

#### **Definitions**

The Disability Discrimination Act 1995 (DDA) makes it generally unlawful to discriminate against a disabled person in the field of employment for a reason connected with their disability.

The law applies to all areas of employment including job descriptions and person specifications, advertising, selection tests, interview procedures, pay terms and conditions and termination of employment.

Disability is defined as “a physical or mental impairment, which has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities”.

There is no definition of “Physical impairment”, but it can be regarded as a weakening of any part of the body caused through illness, by accident or congenitally.

Some conditions which can fluctuate in severity, such as rheumatoid arthritis, are included and conditions which deteriorate such as multiple sclerosis, muscular dystrophy and HIV are covered from the time of diagnosis, even though the early symptoms may not be severe. Cancer is also covered.

“Substantial” means that the effect of the physical or mental impairment on the ability to carry out normal day to day activities is more than minor or trivial. It does not have to be severe.

A severe disfigurement is generally treated as a disability, even though it may have no effect on the ability of a person to carry out their normal day to day activities. It excludes acquired disfigurements such as tattoos or body piercing.

Some conditions are specifically excluded. These include addiction to or dependency on alcohol, nicotine or other substances (unless resulting from the substance being medically prescribed); conditions such as hay fever unless it aggravates the effect of another condition; a tendency to set fires, or steal, or physically or sexually abuse other persons; exhibitionism and voyeurism.

“Long term” means that the impairment:

- a) has lasted at least 12 months
- b) is likely to last for at least 12 months; or
- c) is likely to last for the rest of the person’s life(e.g if the person is terminally ill and not expected to live beyond 12 months).

People who have had a disability within the definition are also protected from discrimination even if they have since fully recovered. The past impairment would have to have lasted for 12 months.

Day to day activities are normal activities carried out by most people on a regular basis falling into one of the following broad categories: mobility; manual dexterity; physical co-ordination; continence; the ability to lift, carry or move everyday objects; speech, hearing or eyesight; memory or ability to concentrate, learn or understand; perception of the risk of physical danger.

## **Reasonable adjustments**

In addition to making discrimination on grounds related to disability unlawful the DDA 1995 places an obligation on employers to make reasonable adjustments to the working environment, working arrangements and working conditions in order to accommodate the needs and requirements of disabled employees and job applicants. However, in order to do so, the employer needs to know if the job applicant or employee is disabled or could reasonably be expected to know. This means that there is a responsibility upon a disabled applicant or existing employee to provide the employer with sufficient information to make a reasonable adjustment.

In terms of recruitment, all candidates are asked in letters inviting candidates to interviews if they have any special needs in terms of interview arrangements and need any reasonable adjustments in respect of selection tests.

Adjustments for employees must be tailored to the individual's specific needs and should not be based on an assumption about what is required. Apart from consulting the employee concerned, advice of the Council's Occupational Health Adviser should be sought prior to determining suitable adjustments and if necessary, that of a specialist adviser in the specific condition which that employee has in order to ensure that the adjustment/s are appropriate. Adjustments should be kept under review and modified as appropriate.

Reasonable adjustments might include measures such as: .

- modifying physical features of the workplace;
- altering working hours;
- Allowing absences during working hours for rehabilitation, assessment and treatment;
- Additional training
- Equipment changes such as using modified equipment, for example a telephone with text display for use by a person with a hearing impairment or using a dictaphone for a visually impaired person
- Assigning the disabled person to a different place of work or training
- Modifying instructions or reference material
- Providing supervision or other support
- Transferring the disabled person to fill an existing vacancy

- Modifying procedures for assessments/testing

Further guidance on examples of reasonable adjustments are contained in the Disability Discrimination Act : Code of Practice on Employment and Occupation. A copy of this is available by e-mail from Human Resources.

### **Recruitment and Selection of Disabled Employees**

The Two Tick Symbol (Positive about Disability), which is a recognition given to employers by Jobcentre Plus, is used by Watford Borough Council to demonstrate in recruitment advertising its commitment to a number of measures concerning the recruitment, development and retention of disabled people, including offering a guaranteed interview to any disabled person who meets the essential requirements of the job.

Employers who use the symbol have agreed with Jobcentre Plus that they will take action on the following five commitments:

1. To interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities.
2. To ensure there is a mechanism in place to discuss, at any time, but at least once a year, with disabled employees, what can be done to make sure they can develop and use their abilities.
3. To make every effort when employees become disabled to make sure they stay in employment.
4. To take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work.
5. Each year, to review the five commitments and what has been achieved, plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans.

The full details of this scheme and the details of promoting equality and access in employment is contained in the Recruitment Policy.

### **Promotion, Transfer and Training**

Wherever possible, the Council will offer the same training and development opportunities to disabled employees as to other employees.

When addressing a promotion, transfer or training the following points should be taken into consideration:

- What reasonable adjustments would be necessary and appropriate

- When comparing internal applicants for a promotion or transfer the disabled employee's ability will be assessed as they would be after any reasonable adjustment has been made.
- The need to offer specialised training .
- Whether medical advice or professional evaluation should be sought to identify the potential impact of any restriction or limitation.
- Any matters taken into consideration should be discussed with the disabled person concerned.

### **Sickness and Absence**

In general, disabled people are fit and healthy and do not require any more time off work than other employees. A disability is a physical or mental impairment which, although it may affect the person's day-to-day activities it does not necessarily impact on the person's general health.

Certain employees who are disabled will require time off for medical treatment, especially in the early stages of the onset of a disability or the period immediately following an accident.

Where sickness results in absence this will be addressed within the terms of the Sickness Management policy. In cases of long term sickness, line managers are responsible for assessing the impact on the service and maintaining a dialogue with the employee. Although the preference would be to retain a disabled employee, as with non-disabled employees sometimes the absence level is such that this may not be feasible. Even if an employee is disabled it may still be legally fair to dismiss an employee where the employee has long term sickness absence.

Dependent on the circumstances, individuals may need to be cautioned that if there is no medical indication of a return to work in the near future, the needs of the service may mean that dismissal on the grounds of capability is considered. The key elements of a fair procedure are to obtain suitable medical advice through the Council's Occupational Health Service and if necessary from a specialist in their condition, to investigate carefully if reasonable adjustments would enable the employee to continue in their post and to consider suitable alternative employment.

It is important to note that disability related absences should be recorded separately on attendance records as recommend by the Disability Rights Commission (DRC). This is relevant when it comes to dealing with specific issues such as performance appraisals and redundancy selection criteria where disability related absences should be excluded from other sickness history where level of sickness absence is used as a factor in selection for redundancy.

## **Disability Leave Scheme**

The Council is willing to support employees with disabilities and to take such measures as reasonable adjustments. The disability leave scheme (DLS) provides a mechanism for all employees with a recognised disability to be considered for leave of absence for rehabilitation, treatment or assessment. There is no qualifying period for anyone wanting to be considered for DLS and it is available to all directly employed employees both full time and part time. Each case will be considered on its own merits and the approved time off will be recorded as DLS. It will not be recorded against holiday, sick or any other form of leave.

This may be of particular benefit to a newly disabled employee or for someone whose condition has deteriorated allowing an agreed time off arrangement to help meet the changes in personal and professional circumstances.

Individuals seeking DLS should initially discuss any needs with their line manager. The line manager is responsible for considering the request and taking into account the individual's condition and possible changing needs. Where an employee has newly become disabled or where medical advice is required or appropriate, the line manager would arrange for an assessment referral to the Occupational Health Adviser. The referral should include details of any service maintenance issues that need to be taken into account. A relevant medical appointment card or letter should be submitted to the line manager by the employee where DLS relates to medical appointments. DLS requests should not be unreasonably refused.

DLS will be authorised over a period not exceeding twelve months, but it can be reviewed/extended as appropriate every twelve months thereafter. The maximum number of DLS days permissible in a twelve month period is 10 working days. This leave will be paid at the usual full salary/wage.

HR are responsible for liaising between managers, employees and occupational health, wherever necessary, to determine what support and assistance will be in the best interests of the employee and the service. HR will maintain a DLS record for monitoring purposes.

## **Health and Safety**

### **Extra needs in the event of an emergency**

There is both a legal and moral obligation to ensure that any people on the premises with special needs are adequately considered with regard to Health

and Safety in the event of an emergency. This can take different forms depending on the disability.

The fire and rescue services are not responsible for the normal evacuation of anyone in an emergency but will rescue anyone who is trapped or injured. It is therefore the responsibility of local managers to ensure that adequate arrangements are in place for the safe evacuation of employees with a disability and that these arrangements are known and understood by work colleagues.

Special consideration should be given to the following points;

- Recognition of the emergency alarm
- Evacuation of mobility- impaired people
- Transport of wheelchairs down stairs
- Responsibility for safe evacuation

Further advice can be obtained from the Corporate Safety Advisor.

### **Temporary Impairment**

Temporary mobility impairment (e.g. an employee with a limb in plaster or an employee with temporary loss of hearing) can arise at any time affecting any member of staff.

It may be possible for the affected person to continue to be profitably employed, provided their safety and that of those affected by them is not compromised and their doctor approves.

Whilst these conditions may not be covered by the DDA 1995 requirements for normal work and for emergency evacuation are no different to those of the long term disabled. Their needs must be considered before permission is given for them to return to work. It is common to consider that an employee can use existing facilities e.g. lifts for access; however this is not an option in the event of an emergency.

### **Workplace Access**

External help can be obtained through a variety of schemes from the Employment Service's Disability Advisers (DEA) based at local job centres. The DEA is part of an Employment Service Disability Team.

**Access to Work** is a programme run by the Department of Work and Pensions and provides support to disabled people to help overcome the practical work-related problems caused by disability. Advice and help can be provided in a tailored way to suit the needs of an individual in a particular job. The scheme requires that the initial application for support must be made by the disabled person. An assessment is then made as to whether to make a

grant towards any additional employment costs. After the initial approach has been made by the employee, the employer can then follow this up.

Examples of assistance may include:

- A communicator for deaf people or those who have a hearing impairment and need a communicator with them at interview.
- A reader at work for someone who is blind or has a visual impairment
- Special equipment – or alterations to existing equipment – to suit particular work needs arising from disability
- Alterations to premises or working environment, if needed because of disability, either at work or getting to work
- Help towards the cost of getting to work if disability prevents an employee from using public transport
- External help and guidance for all of the above may be available through the 'Employment Services Disability' team who are based at local Jobcentres
- In addition a new organisation has been set up to help disability law compliance – The Council for Access and Equality.

The help can include a grant towards meeting the costs associated with making adaptations to meet the needs of a disabled employee. HR is able to provide further information and advice to managers and disabled employees about this scheme.

### **Retaining employees who develop disabilities**

All the provisions of the Disability Discrimination Act (DDA) apply to employees who become disabled whether suddenly or gradually, in the same way as they apply to employees who already have a disability. The Act also applies to employees who have an impairment which worsens or where the impairment remains stable but the nature of that employee's role changes.

Disability must not be a factor when selecting for redundancy and should not be used as grounds for compulsory early retirement or dismissal without exploring all reasonable adjustments.

After all reasonable adjustments have been fully considered, if a post holder is unable to continue in their current role consideration will be given to identifying suitable alternative work. People in this situation will be treated as "at risk" of job loss and be given priority consideration for available jobs. Where a role is identified as potentially suitable, following consultation with

the employee HR and the line manager, the role would not be advertised and the employee interviewed.

Where a role has already been advertised, priority consideration is given to the employee by way of an interview to determine their suitability before any other candidates are interviewed.

### **Discipline and Grievance**

Where Discipline and Grievance issues arise for disabled employees the Council's procedures will be applied.

Any decisions or actions resulting from the Discipline and Grievance procedure, for disabled employees, will take due regard of the provisions of the DDA and any agreed adjustments that have been made.

### **Review**

The Council has an action plan in relation to the Disability Equality duty. This action plan will be reviewed as a minimum every 3 years. The Disability Policy will be reviewed as needed.