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Author / Originator and Job Title: Tina Daniels, Equality and Diversity Lead		Risk Assessment: Not Applicable
Replaces: Version 2 Employment of people with a Disability CORP/PO/222 Morecambe Bay Primary Care Trust – Mental Health and Employment Statement February 2006 Mental Health and Employment in Community (North Locality, Ex Morecambe Bay)	Description of amendments: Amendments throughout to streamline document Also incorporating the former Morecambe Bay policy February 2006	
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Blackpool Teaching Hospitals NHS Foundation Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that they are not placed at a disadvantage over others. The Equality Impact Assessment Tool is designed to help you consider the needs and assess the impact of your policy in the final Appendix.

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1 PURPOSE

Blackpool Teaching Hospitals, NHS Foundation Trust is committed to maximising the potential of its employees, and the potential within the labour market, by ensuring that we employ the right candidate for the job.

The Trust believes that unlawful discrimination in any form, whether direct or indirect, intentional or unintentional, is totally unacceptable.

This policy should be read in conjunction with the Equality and Diversity Strategy.

2 TARGET AUDIENCE

This policy applies to all staff employed under a contract of service by the Blackpool Teaching Hospitals, NHS Foundation Trust.

3 POLICY

3.1 Definition of Disability

A 'Disabled Person' is defined in law as "a person with a physical or mental impairment, which has a substantial and long-term adverse effect on his/her ability to carry out normal day to day activities". **It is at the individual's discretion as to whether they declare a disability.**

3.2 Discrimination

Discrimination occurs when:

- For a reason, which relates to a person's disability, the employer treats that person with a disability less favourably than the employer treats or would treat others to whom the reason does not or would not apply and the employer cannot show that this is justified.
- An employer fails to comply with a duty of reasonable adjustment in relation to the person with a disability and cannot show that the failure is justified.

3.3 Roles and Responsibility

3.3.1 Trust

The Trust has a responsibility to ensure that it complies with the Equality Act 2010 (EA'10) so that people who have an impairment or long-term health condition are not discriminated against, and have reasonable adjustments made for them as appropriate. The Trust has further responsibilities to ensure managers are made aware of their obligations towards staff with a disability and are supported in fulfilling those obligations.

The Trust is liable for the actions of its volunteers, contractors etc. and as well as staff, regardless of whether such actions are with the express or implied authority of the Trust.

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Where an adjustment may be necessary, the Trust falls under a duty to make that adjustment, except where it did not know, and could not reasonably have known, that an adjustment is required.

The Trust has an anticipatory duty to make adjustments. For example, processes must be in place to enable provision of information in Braille, even if this has not been requested to date, it is unacceptable to not make provisions just because a specific need has not as yet been identified.

The Trust must also be able to show that it took such steps as are reasonable, without being intrusive, to find out or encourage disclosure.

3.3.2 Managers

When notified that a member of their staff has an impairment or long-term health condition, Managers in turn have a duty to inform / involve Human Resources (HR). The Manager should then investigate and implement any recommended reasonable adjustments (See Section 3.4).

Where appropriate Managers may need to brief other members of the team, particularly in situations where the reasonable adjustments requires a re-distribution of work tasks, hours or a change in work location. This must be undertaken in a sensitive manner in consultation with the employee.

Any requests from the individual for confidentiality that could potentially impact upon the support or extent of reasonable adjustments that might be made should be discussed with the employee.

3.3.3 Employees

All Employees have a responsibility to understand that a person with an impairment or long-term health condition that impacts upon their daily activities may require 'reasonable' adjustments from the employer. Such adjustments are intended to tackle discrimination and create equality in opportunities for employees with a disability, and are carefully designed so they do not impact negatively on the work of other staff or the organisation.

Although it is the responsibility of the Trust to take steps to find out about any need for reasonable adjustments, employees with a disability have an obligation under this policy to bring to the attention of their Line Manager the fact that they have additional needs, and to assist with the investigation and implementation of reasonable adjustments as required.

Staff responsible for organising functions, events, courses and meetings must ensure that all participants and visitors are asked if they require reasonable adjustments in advance and ensure that these are investigated and implemented as necessary.

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3.3.4 Human Resources (HR)

The HR team have a duty to take proactive measures to encourage disclosure of additional needs by creating a positive environmental and workplace culture via promotion of this policy and via the Trust's recruitment, interview, appointment or other registration processes.

HR staff will advise on the implementation of this policy and should be involved with the manager when it is known there is an applicant with a disability for a vacancy, and when an employee declares a disability or an employee's disability worsens.

HR will also assist to co-ordinate the implementation of reasonable adjustments following Access to Work, Occupational Health or other Health and Safety recommendations and in conjunction with the member of staff with a disability, his / her manager and other relevant teams across the Trust.

3.4 Identification of reasonable adjustments

The Equality Act 2010 places a legal obligation on all employers to make reasonable adjustments to support job applicants and employees who have a disability. This means ensuring people with a disability can overcome any substantial disadvantages they may have doing their jobs and progressing in work.

Reasonable adjustments can involve little or no cost and could include:

- Making changes to a disabled person's working pattern.
- Providing training or mentoring.
- Making alterations to premises.
- Ensuring that information is provided in accessible formats.
- Modifying or acquiring equipment.
- Allowing extra time during selection 'tests'.

Reasonable adjustments may extend to the individual concerned only (such as providing a Support Worker, acquiring or adapting specialist equipment or organising transport to-from and within work), or they may be more wide-ranging to include changes to policies, procedures or corporate functions, to working arrangements or to enable access to premises that also includes car parking, signage, light / noise levels and safe evacuation.

The Trust has a legal obligation to take reasonable steps to find out whether reasonable adjustments are needed. This can be done by:

- Asking staff at the point of application if they have any additional needs as a result of an impairment or health condition with a clear explanation of why such information is sought, who will see the form, what will be done with the information and how it will be used to trigger follow-up support or adjustment.

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- Providing on-going opportunities for staff to disclose a disability, for example at appraisal meetings.

3.4.1 Action to be taken when notified that a person has additional needs

When an applicant or employee advises the Trust that they have additional needs, the Manager responsible must investigate and implement as fully as possible such adjustments, taking advice from the following:

- The person with a disability who will know their own needs and, in most cases, the kinds of adjustment that will be most effective.
- Occupational Health, who may provide a report of recommendations regarding working environment and practices.
- Health and Safety, who may undertake a risk assessment and indicate any changes to procedures, provision of additional training or purchase of extra equipment that is required.
- Access to work, who will fund a ‘Vocational’, Ergonomic’ and / or ‘Technology and Equipment’ assessment or need for the employee. Any approach to Access to Work must be via the individual themselves (see Appendix 1).

Further advice can be sought from the Equality and Diversity Lead.

Where the impairment and need for adjustments is clear, no proof of confirmation is necessary. However, for hidden impairments, or long term health conditions evidence of need might be requested prior to undertaking adjustments (such as medical confirmation or an Educational Psychologist’s report in the case of Dyslexia or other learning difficulty).

3.4.2 Making Reasonable Adjustments

Only an employment tribunal can confirm what is ‘reasonable’ for the purposes of the Law. In doing so, they will consider the following factors:

- The effectiveness of the adjustment in preventing the disadvantage.
- The practicality of the step.
- The financial and other costs to the Trust.
- The extent of any disruption caused.
- The extent of the Trust’s financial and other resources.
- The extent of financial assistance that might be given to the Trust through, for example, the Access to Work Scheme.
- The impact on other staff.
- Any prescribed standards or professional requirements for the role.
- Adjustments made for other staff with a disability.
- The extent to which the person with a disability is able and willing to co-operate.

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The Equality Act 2010 does not provide employers with a complete list of adjustment, because adjustments may vary between members of staff, their experience of their impairment and the type of work they carry out. Some examples of reasonable adjustment that you can make include:

- Flexible working arrangements in relation to hours, location and distribution of duties.
- Time off for assessment, rehabilitation, treatment or counselling (also known as disability leave).
- Making adjustments to premises to enhance access for individuals with physical or sensory impairments, mental health or learning needs, or health conditions such as epilepsy or diabetes.
- Acquiring or modifying equipment e.g. magnifier, induction loop, desk-lamp, larger PC screen, adjustable-height furniture, voice activated software or a telephone adapted with an amplifier.
- Providing additional training.
- Providing additional supervision or mentoring.
- Transcribing or modifying instructions e.g. putting agendas, minutes or other information into accessible formats such as large font, Braille or CD-ROM, making documentation available electronically via email attachment or on the Intranet.
- Consideration of adjustment to the sickness absence policy triggers upon the advice of Occupational Health
- Modifying procedures for testing or assessment.
- Providing a reader or interpreter.
- Allowing the member of staff to work in a private room if most work is done in an open-plan office.
- Transferring a person to another existing vacancy, even if it is at a higher grade, when their impairment or health condition prevents them from fulfilling all requirements of their current role.

The Trust needs to ensure that reasonable adjustments do not lead to risks that conflict with Health and Safety legislation. The Act does not require consideration of a potential reasonable adjustment that, if implemented, could place disabled and other staff at inappropriate risk. It is recommended that a risk assessment is undertaken and measures adopted.

Where a risk remains substantial, in spite of any control measures and adjustments, an alternative reasonable adjustment may be to re-deploy the individual to another existing vacancy where the risk does not arise. Any such decision must be made in consultation with the member of staff and a member of the HR team. The member of staff may be accompanied/represented at any meetings.

Where a risk is unsubstantial, in that there is no adverse impact on others and only minimal degree to the disabled person, then it may be possible to continue working if the

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disabled employee is happy to do so. This wish should be respected where possible. The Trust is expected to do all it can to eliminate risk in the workplace, but the law does recognise that all risks cannot be removed absolutely. In this instance, explicit informed consent in writing by the disabled member of staff is essential and a copy of this must be kept in his/her personal file, with signatures of the member of staff and line manager.

3.4.3 When the Adjustment is not fit for purpose

It is important to remember that a reasonable adjustment that has worked effectively for many years may stop being as effective as the person’s impairment or health condition changes or the nature of the work itself changes. It is equally important to remember that two people with the same impairment may require different reasonable adjustments to be made.

It is recognised that in some cases an adjustment may be put in place, by the person with the responsibility to do so and believes is effective, but which the disabled member of staff feels is not enough.

In this situation, the person with the responsibility to make the adjustment should take the following action:

- Personally review the adjustment to identify concerns.
- Check whether the adjustment is not as effective as first thought, or that it is effective but is not the adjustment that the member of staff preferred.
- Examine how it is working and try to understand why the member of staff thinks it is not good enough.
- Discuss alternatives that could address the difficulties identified.
- Seek specialist advice from internal and external sources (E.g. Occupational Health, a disability advisor at Jobcentre plus, etc.).
- Implement new reasonable adjustments if desirable after completing the above steps.
- Review the effectiveness on a regular basis.

The member of staff concerned has a responsibility to co-operate with this process and the Trust will assist wherever possible to do so.

Where it is apparent that the only reason the employee is dissatisfied with the reasonable adjustment is because they would have liked something better, although this may not actually be more effective in practice, there is no reason to change the adjustment already in place.

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3.5 Employees who have become disabled or whose disability has worsened

The Trust will not discriminate against a person with a disability whom it employs:

- in the terms of employment afforded to the employee,
- the opportunities afforded for promotion, development or receiving any other benefit or by refusing to afford any such opportunity,
- by ensuring that policies and procedures are legally compliant.

Managers must consider making reasonable adjustments to physical features and / or employment arrangements in order to avoid unlawfully discriminating against employees who become disabled, or whose disability worsens.

Every effort must be made to achieve redeployment or retention, with or without reasonable adjustment, for employees who become disabled to the extent that the existing contract of employment cannot be fulfilled.

In cases where consideration is given to termination of employment, either via Ill Health Retirement or the Sickness Absence Policy, Managing Attendance Policy, it must be evidenced that all efforts have been made to retain the services of our employee. The dismissal of a person with a disability for a reason relating to the disability would need to be justified, and the reason for it would have to be one, which could not be removed by any reasonable adjustment.

Where an employee has become disabled, or has a disability which has worsened, the manager must actively explore the potential for retention in the existing employment field. Alternatively the manager and employee may consider alternative types of employment with or without reasonable adjustment.

3.6 Confidentiality

The Trust recognises that in some situations a staff member may be made aware that another member of staff has an impairment or health condition that requires reasonable adjustments to be made. In such situations, given that an impairment and health condition is classed as 'sensitive personal data' under the Data Protection Act 1998, the information must be treated as confidential. No information can be forwarded to a third party without consent of the person concerned even when the consequence might be that either a less satisfactory reasonable adjustment can be provided or that no reasonable adjustment can be provided.

Breach of confidentiality can only occur where the person with a disability's own safety is at risk, where the safety of others is at risk, or where a failure to disclose may result in criminal activity.

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3.7 Contract / Agency Workers

The Trust will not discriminate against a person with a disability:

- In the terms on which the person is allowed to do the contract of agency work.
- By not allowing the person to do, or continue to do, the contract work.
- In the way the contract worker is afforded access to, or by failing to afford access to, benefits in relation to contract work.
- By subjecting the person to any other detriment in relation to contract work.

The duty to implement the terms of the Act and Regulations applies as if the Trust was the actual employer of the contract worker.

3.8 Management and Review of Policy

The Equality and Diversity Lead will be responsible for the review of this policy, and in addition the effectiveness of this policy will be monitored by the HR Directorate. The number of applications made, accepted and declined under this policy will be monitored as part of the Annual Equality and Diversity Report.

3.9 Monitoring

The Trust will maintain a record of all those employees affected by this policy who have declared they have a disability.

The policy and its effectiveness will be audited annually and a report provided to the relevant Workforce Committee.

4 ATTACHMENTS	
Appendix Number	Title
1	Access to work scheme
2	Recruiting and Appointment of a Support Worker
3	The Meaning of Disability
4	Equality Impact Assessment Form

5 PROCEDURAL DOCUMENT STORAGE (HARD AND ELECTRONIC COPIES)
Electronic Database for Procedural Documents
Held by Procedural Document and Leaflet Coordinator

6 LOCATIONS THIS DOCUMENT ISSUED TO		
Copy No	Location	Date Issued
1	Intranet	21/06/2016
2	Wards, Departments and Service	21/06/2016

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7 OTHER RELEVANT / ASSOCIATED DOCUMENTS	
Unique Identifier	Title and web links from the document library
CORP/GUID/027	Religious and Cultural Beliefs http://fcsharepoint/trustdocuments/Documents/CORP-GUID-027.doc
CORP/POL/521	Work-Life Balance http://fcsharepoint/trustdocuments/Documents/CORP-POL-521.docx
CORP/POL/532	Recruitment and Selection http://fcsharepoint/trustdocuments/Documents/CORP-POL-532.docx
CORP/PROC/022	Interpreting Services for those patients whose first language is not English and those with Hearing Impairments http://fcsharepoint/trustdocuments/Documents/CORP-PROC-022.docx
CORP/PROC/208	Prevention of Bullying and Harassment Procedure http://fcsharepoint/trustdocuments/Documents/CORP-PROC-208.docx
CORP/PROC/636	Disciplinary and Appeal Procedure http://fcsharepoint/trustdocuments/Documents/CORP-PROC-636.docx
CORP/GUID/???	Reasonable Adjustment Guideline http://fcsharepoint/trustdocuments/Documents/CORP-GUID-???.doc
CORP/STRAT/001	Equality and Diversity Strategy http://fcsharepoint/trustdocuments/Documents/CORP-STRAT-001.doc

8 SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS	
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8 SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS

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NHS Staff Council working in partnership Equality and Diversity Group. (January 2014). Guidance relating to disability for the NHS. Available: http://www.nhsemployers.org/~media/Employers/Documents/Pay%20and%20reward/Guidance%20relating%20to%20disability%2028%20Jan.pdf . Last accessed 09/07/2015.
Provisions of Goods and Services April 2007

9 CONSULTATION / ACKNOWLEDGEMENTS WITH STAFF, PEERS, PATIENTS AND THE PUBLIC

Name	Designation	Date Response Received
	Equality Diversity & Human Rights Steering Group	
	Staff E&D Network	
	Trade Union Representatives	

10 DEFINITIONS / GLOSSARY OF TERMS

Direct Discrimination	Occurs where a person of one group is treated less favourably than another person from another group would be in the same, or not materially different circumstances
Discrimination by Association	Direct discrimination against someone because they associate with another person who possesses a Protected Characteristic
Discrimination by Perception	Direct discrimination against someone because the others think they possess a particular Protected Characteristic
Diversity	To value physical culture and social differences among individuals

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10 DEFINITIONS / GLOSSARY OF TERMS	
Equality Act 2010 (EA'10)	The Equality Act 2010 protects people against unfair treatment (discrimination) on the grounds the protected characteristics. The Act simplifies, strengthens and harmonises legislation to provide discrimination laws which protects individuals from unfair treatment and promotes a fair and more equal society.
Equality	Creating a fairer society where everyone can participate and has the opportunity to fulfil their potential
Equality Opportunities	Addresses issues of representation and balance
Harassment	Is where there is unwanted conduct related to one of the protected characteristics which has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person
HR	Human Resources
Indirect Discrimination	Occurs when an unjustifiable requirement or condition is applied equally to everyone but has a disproportionately adverse effect on one or more groups
Protected Characteristics	Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.
Victimisation	Occurs when a person is treated less favourably than others because that person has made or intends to make a complaint or allegations of discrimination

11 AUTHOR / DIVISIONAL / DIRECTORATE MANAGER APPROVAL			
Issued By	Tina Daniels	Checked By	Anne Radcliffe
Job Title	Equality & Diversity Lead	Job Title	Head of Human Resources
Date	May 2015	Date	May 2015

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APPENDIX 1: THE ACCESS TO WORK SCHEME

Access to Work is a government scheme funded through the Department of Work and Pensions. It provides support to disabled people to help them overcome barriers in seeking, securing or retaining employment, or in making progress in their career. It is for people who have an impairment or long-term health condition, if this is likely to last for 12 months or longer, or has already lasted for 12 months. The programme is available to those who are self-employed or in work, whether the job is part-time or full-time, permanent or temporary.

Although cases are assessed on an individual basis, Access to Work will make grants or provide funds to meet:

- 100% of approved costs for applicants or new employees who claim within the first six weeks on joining the organisation; if such employees require funding beyond a three-year threshold, then Access to Work will fund up to 80% of costs of adjustments between £300 and £10,000, and 100% of any adjustment beyond this amount.
- 80% of costs for employees who claim after six weeks of joining an organisation; for these employees, the employer is required to make a contribution of £300 every three years in addition to 20% of costs for any adjustments, but Access to Work will fund any cost above £10,000.
- Access to Work will fund up to 100% of costs of anyone who is seeking employment and attends for interview (for example, in the case of travel expenses, Support Worker or BSL communicator for a deaf person).

The scheme cannot be used to fund general adjustments for the employer, only those in respect of a specific named individual. The kinds of adjustments that can be funded under the Access to Work scheme include:

- A communicator for someone who is deaf or hard-of-hearing;
 - A reader or assistant for someone who is blind or visually-impaired;
 - A support worker to provide practical assistance in work or getting to work for someone who has physical impairments;
 - A mentor for someone who requires support to adjust to new environments or routine;
 - Software or hardware to enable access to communication media;
 - Auxiliary aids (such as magnifiers or portable loop systems) to enable access to the working environment;
 - Alteration to existing equipment (such as chairs, desks, telephones or cabinets) in response to an individual's needs;
 - Adaptations to the working environment, such as alarms, security features, way-finding or lifts;
 - Transport costs
- The Access to Work scheme is administered by regional disability

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services based at a nominated Job Centre Plus site. Bolton is the nominated site for the Northwest, but referrals are taken by telephone and assessments are carried out usually at the applicant's place of work. Steps towards the application for and implementation of support include:

Initial contact to Access to Work is a self-referral scheme, and requires that applicants themselves make the initial contact either via telephone on 01204 516 480, or via Minicom on 01204 516 585 (application packs will be sent out via a third-party if the applicant is unable to use a telephone or minicom).

The application process involves completing a form (available in varied formats), which asks for information regarding impairment or health condition, and the nature of support that may be needed.

Applicants can have assistance to complete the forms, either from the Access to Work advisor or from a Disability Employment Advisor based at a local Job Centre. An Access to Work Advisor will contact the applicant within 14 days from receipt of a completed application pack, and make the referral for an 'assessment of need' if required.

- **Assessment of need:** Funding or grants are available only to meet the costs of 'approved' adjustments. These are the ones that have been agreed by an Access to Work advisor, usually following an 'assessment of need' for any adjustments to working environment or arrangements, and for any aids or equipment to enable the applicant to carry out work duties. These 'vocational', 'ergonomical' or 'technical' assessments are carried out by independent advisors who have expertise both in the impact of a specific impairment or health condition as well as in employment issues. They will normally occur at the place of work, and in conjunction with the line manager, Health and Safety staff and staff from the Information Technology department. The assessors will draw up action-points and recommendations that will form the basis of adjustments that are required for the employee, as well as estimated costs and list of suppliers. Copies of this report will be sent to both the applicant and Access to Work within 28 days from point of referral.
- **Consideration of report:** An Access to Work advisor will consider the recommendations in the assessment report, and make a decision as to which adjustments they are prepared to fund, and the extent to which the employer will be required to make contributions. Details of their decision and a copy of the assessment report will be forwarded to both the applicant and his/her line manager, normally within 28 days from receipt of report.
- **Implementation:** On receipt of the report and agreement of grant/funds to be made available, the employer is requested to begin implementation within 7-14 days. It is expected that all recommendations (regarding appointment of Support Workers, adaptations to the workplace and purchase of equipment) will be undertaken within a period of 1 to 2 months, but this may not always be the case, depending upon the nature of adjustments that are made and from the place of work, and travel within work.

The onus remains, however, on the employer to identify funds (at least 80% of which would be claimed back), and purchase the equipment. Any delay in the implementation of

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APPENDIX 1: THE ACCESS TO WORK SCHEME

support may impact upon the effectiveness with which the disabled employee is able to carry out his/her duties to full potential, and managers will need to compensate for this through any alternative possible 'reasonable' adjustments.

- **Co-ordination:** Implementation of support will often involve a range of departments and staff, including from Finance (who will need to identify funds and collate invoices so as to re-claim costs), IT (who will purchase and install software and hardware and organise any training), Estates (who will carry out any adaptations to the environment), Health and Safety (who may need to implement measures to counter inappropriate risk) to HR (Who may need to appoint a Support Worker). So as to ensure that all support recommendations are carried through smoothly and effectively, line managers will need to liaise with staff across relevant departments, ensure unnecessary delays are minimised, and keep the employee informed as to progress.
- **Review:** Access to Work will normally carry out a review of support needs after a period of three years, particularly in the case where costs are on-going (for example, regarding Support Worker hours). Any change in circumstances (E.G. the impact of an impairment or health condition improves or deteriorates, the employee's working arrangements or environment change, or the employee acquires a new role) will trigger either a review of support or a new claim.
- **Equipment maintenance and disposal:** Any equipment that is purchased wholly or partly by Access to Work moneys becomes the responsibility of the employer. This means that the employer is responsible for meeting any insurance or maintenance costs. If the employee leaves to undertake new employment elsewhere, he/she may arrange with Access to Work to continue the equipment to the new post. If the equipment is no longer required by the employee, then the employer must liaise with Access To Work to either retain the equipment for other disabled employees (for which there is no charge), retain the equipment for general use (in which case the equipment will have to be purchased from Access to Work minus any employer contributions) or offer Access to Work to buy back the equipment (for which a payment will be made based on market value and period of use).

For any further information regarding Access to Work, please contact:

Access to Work
Telephone: 0141 950 5327
Textphone:08456025850
Fax:01419505265
Email: atwosu.glasgow@jobcentreplus.gsi.gov.uk

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APPENDIX 2: RECRUITMENT AND APPOINTMENT OF SUPPORT WORKERS

What is a Support Worker?

A Support worker provides assistance to disabled staff in the workplace so as to enable them to perform the duties and responsibilities of their post. It is important to note that the Support Worker does not himself/herself 'perform' those duties and responsibilities, but 'enables' or 'assists' the employee to undertake his/her work tasks. It is not essential, therefore, for the Support worker to have the same knowledge, skills or experience as that of the employee being supported, nor will they necessarily work the same hours as the employee. A job description and person specification must be developed for the Support Worker role.

What might Support Workers do?

Support Workers perform different roles dependent upon the needs of the employee. Examples of work undertaken might include:

- Communication support for an employee who is deaf or hard-of-hearing, which might involve lip-speaking or Sign-Language interpretation;
- Reader or assistant for a blind or visually-impaired employee, which might involve reading and/or administrative tasks to enable access to information and communication media;
- Orientation and routine-development for staff who have learning or mental health related difficulties;
- Personal and administrative assistance for staff with physical impairments;
- Driving or travelling support for staff who are unable to use public transport.

Support required might be as little as one hour or as much as 35 hours per week, and maybe required throughout or only at the start of employment. The nature and degree of support required might also fluctuate depending upon the impact of the impairment or duties of the post.

The nature and degree of support required is assessed by an employment advisor as appointed by Access to Work and who is informed of the impact of an impairment within a working environment. The advisor may also consult with the manager of the employee when making support recommendations. The person requiring a support worker must be involved in discussions wherever appropriate.

Recruiting a Support Worker

For new employees, Access to Work will normally agree for and fund a Support worker to be recruited and appointed immediately on commencement of employment, even prior to any Needs Assessment taking place. Current employees who require a Support Worker (because they have become disabled, because the impact of their impairment has deteriorated or because their job role/duties have changed) will require an assessment of need to ascertain amount and nature of support needed.

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The following procedure must be applied when an employee has been offered and has accepted employment with the Trust and requires a Support Worker:

- The HR advisor arranges a pre-employment access meeting between himself/herself, the employee and his/her manager. This meeting must take place as early as is practicable and the objective is to identify any immediate 'Reasonable Adjustments' (such as the need for a Support Worker), and to begin the process of Access to Work application. Actions from this meeting must be progressed in consultation with the employee by either his/her manager (regarding the working environment, duties, Health and Safety, It etc. with appropriate departments), or the HR advisor (regarding the recruitment and appointment of a Support Worker).
- Following this meeting, the Manager must supply the HR advisor with a Job Description, Person Specification and recruitment advertisement for the Support worker post as per the standard recruitment and selection procedure. Details of amount of allocated hours must be agreed with Access to Work by the employee, and this must be confirmed in writing to the HR advisor.

Once supplied with the Job Description, Person Specification and amount of hours, the HR advisor will advertise the role as per the recruitment and selection procedure taking in to consideration the options below –

- A. The role being fulfilled by an internal full-time member of the team (if there is capacity and appropriate competency, and if the amount of support required is minimal, E.G. up to a total of eight hours per week only),
 - B. The role being fulfilled by an internal part-time member of the team (if there is capacity and appropriate competency, and if the amount of hours of support required does not exceed twenty hours per week) or
 - C. Using external recruitment if the amount of hours of support required exceeds capacity, if the support required is of a specialist kind (E.G. Sign-Language interpreting) or if internal sources are unable to meet the need.
 - D. The person with a disability may have an existing support worker in their previous employment and may wish to continue using that Support Worker. The Support worker may be encouraged to apply for the role through the standard recruitment and selection process.
- If the support is to be provided by another member of the team, it must be agreed by and made clear to all parties (the HR advisor, the disabled employee, his/her manager and the support provider) as to the times at which he/she is providing support specifically to the disabled employee under the Access to Work scheme, and the times at which he/she is resuming his/her usual employment duties. The two roles must remain distinct. Access to Work will make a minimum-wage contribution for the hours that are designated as 'support' to the disabled employee, and only for the amount of hours that has been specified.
 - If the appointment is to be external, the HR advisor must begin the recruitment

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APPENDIX 2: RECRUITMENT AND APPOINTMENT OF SUPPORT WORKERS

process by placing the advertisement in appropriate media (such as the local press, organisations working with disabled people, carers' agencies, Social Services agencies, etc.). It is important to note that the Support Worker role is a profession in its own right, attracting a wide spectrum of individuals with diverse skills and experiences. To advertise in NHS media, therefore, may not be appropriate given that the role is more administrative and facilitative in nature. The person with a disability should be contacted regarding any enquiries regarding the post.

- Short listing must be undertaken in accordance with Trust procedure involving the disabled employee, the disabled employee should also form part of the interview panel.
- If the disabled employee is permanent the Support Worker should be employed on a permanent contract of employment. If the disabled employee is employed on a fixed term basis the Support Worker should be employed on the same terms.
- The Support Worker has the same rights and entitlements as other Trust employees.
- The disabled employee has no other responsibility for his/her Support Worker except for determining his/her work duties and tasks, which are determined by the nature and level of support required.
- The manager of the disabled employee is also responsible for evaluating and reviewing the support and work of the Support Worker with the disabled employee, initially after six months and then at least annually.

Any alterations to the job description and nature/level of support must be agreed with Access to Work, the HR advisor and the Support Worker prior to implementation.

- If instances arise where the Support Worker is absent on either holiday or sick leave, it is the responsibility of the Line Manager in conjunction with to arrange and implement appropriate cover (local agencies may be able to assist, such as Direct Payments teams, organisations of disabled people or Social Services). All cover-staff will be paid on an hourly basis on receipt of an invoice, and will have been CRB checked. During the time that the disabled employee is without a Support Worker, the Manager should consider temporary additional adjustments (for example cover from other team members, allowing the employee to work from home, re-organising duties within the team and so on). The Manager should not insist that the disabled worker and employee take holidays at the same time as this can lead to a strain in the working relationship.
- When a Support Worker resigns, the recruitment procedure should be initiated promptly. The Line Manager should seek advice from Human Resources in relation to implementing interim arrangements to ensure that the individuals requirements are met. This could include cover from other team members, making changes to the disabled employees duties / responsibilities, or allowing the employee to work from home). If appropriate (I.E. in instances where the support required is not of a specialist kind, where there is relevant skills-set and where the disabled employee is in agreement), Managers may consider recruiting temporary Support Worker from the Trust's volunteer staff.

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APPENDIX 3: THE MEANING OF DISABILITY

When is a person disabled?

A person has a disability if he/she has a physical or mental impairment, which has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities.

What about people who have recovered from a disability?

People who have had a disability within the definition are protected from discrimination even if they have since recovered e.g. cancer.

What does 'impairment' cover?

It covers physical or mental impairments; this includes sensory impairments, such as those affecting sight or hearing.

Are all mental impairments covered?

The term 'mental impairment' is intended to cover a wide range of impairments relating to mental functioning, including what are often known as learning disabilities.

What is a 'substantial' adverse effect?

A substantial adverse effect is something which is more than a minor or trivial effect. The requirement that an effect must be substantial reflects the general understanding of disability as a limitation going beyond the normal differences in ability which might exist among people.

What is a 'long-term' effect?

A long-term effect of impairment is one:

- which has lasted at least 12 months, or
- where the total period for which it lasts is likely to be at least 12 months, or
- which is likely to last for the rest of the life of the person affected.

Effects which are not long-term would therefore include loss of mobility due to a broken limb which is likely to heal within 12 months and the effects of temporary infections, from which a person would be likely to recover within 12 months.

What if the effects come and go over a period of time?

If an impairment has had a substantial adverse effect on normal day-to-day activities but that effect ceases, the substantial effect is treated as continuing if it is likely to recur; that is if it is more probable than not that the effect will recur.

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What are 'normal day-to-day activities'?

They are activities which are carried out by most people on a fairly regular and frequent basis. The term is not intended to include activities which are normal only for a particular person or group of people, such as playing a musical instrument, or a sport, to a professional standard or performing a skilled or specialised task at work. However, someone who is affected in such a specialised way but is also affected in normal day-to-day activities would be covered by this part of the definition. The test of whether an impairment affects normal day-to-day activities is whether it affects one of the broad categories of capacity listed in Schedule 1 to the Act. They are:

- mobility
- manual dexterity
- physical co-ordination
- continence
- ability to lift, carry or otherwise move everyday objects
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand, or
- perception of the risk of physical danger.

What about treatment?

Someone with an impairment may be receiving medical or other treatment which alleviates or removes the effects (though not the impairment). In such cases, the treatment is ignored and the impairment is taken to have the effect it would have had without such treatment. This does not apply if substantial adverse effects are not likely to recur even if the treatment stops (i.e. the impairment has been cured).

Members of staff requiring treatment for an impairment must be allowed time off work to attend. This must be recorded as disability related absence and not counted as sickness absence. Please cross-reference the Attendance Management Policy for more information.

Does this include people who wear spectacles?

No. The sole exception to the rule about ignoring the effects of treatment is the wearing of spectacles or contact lenses. In this case, the effect while the person is wearing spectacles or contact lenses should be considered.

Are people who have disfigurements covered?

People with severe disfigurements are covered by the Act. They do not need to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities.

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Are there any other people who are automatically treated as disabled under the Act?

Anyone who has HIV infection, Cancer or Multiple Sclerosis is automatically treated as disabled under the Act. In addition, people who are registered as blind or partially sighted, or who are certified as being blind or partially sighted by a consultant ophthalmologist are automatically treated under the Act as being disabled. People who are not registered or certified as blind or partially sighted will be covered by the Act if they can establish that they meet the Act's definition of disability.

What about people who know their condition is going to get worse over time?

Progressive conditions are conditions which are likely to change and develop over time. Where a person has a progressive condition he/she will be covered by the Act from the moment the condition leads to an impairment which has some effect on ability to carry out normal day-to-day activities, even though not a substantial effect, if that impairment is likely eventually to have a substantial adverse effect on such ability.

Are people with genetic conditions covered?

If a genetic condition has no effect on ability to carry out normal day-to-day activities, the person is not covered. Diagnosis does not in itself bring someone within the definition. If the condition is progressive, then the rule about progressive conditions applies.

Are any conditions specifically excluded from the coverage of the Act?

Yes. Certain conditions are to be regarded as not amounting to impairments for the purposes of the Act. These are:

- addiction to or dependency on alcohol, nicotine, or any other substance (other than as a result of the substance being medically prescribed)
- seasonal allergic rhinitis (e.g. hayfever), except where it aggravates the effect of another condition
- tendency to set fires
- tendency to steal
- tendency to physical or sexual abuse of other persons
- exhibitionism
- voyeurism.

Also, disfigurements which consist of a tattoo (which has not been removed), non-medical body piercing, or something attached through such piercing, are to be treated as not having a substantial adverse effect on the person's ability to carry out normal day-to-day activities.

(from "the Duty to Promote Disability Equality: Statutory Code of Practice, Appendix B")

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APPENDIX 4: EQUALITY IMPACT ASSESSMENT FORM					
Department	HR & OD	Service or Policy	Creating a Diverse Workforce - Employing People with a Disability	Date Completed:	27th May 2015
GROUPS TO BE CONSIDERED Deprived communities, homeless, substance misusers, people who have a disability, learning disability, older people, children and families, young people, Lesbian Gay Bi-sexual or Transgender, minority ethnic communities, Gypsy/Roma/Travellers, women/men, parents, carers, staff, wider community, offenders.					
EQUALITY PROTECTED CHARACTERISTICS TO BE CONSIDERED Age, gender, disability, race, sexual orientation, gender identity (or reassignment), religion and belief, carers, Human Rights and social economic / deprivation.					
QUESTION	RESPONSE		IMPACT		
	Issue	Action	Positive	Negative	
What is the service, leaflet or policy development? What are its aims, who are the target audience?	No issues around policy development. Aims to support and give equal opportunities all staff irrespective of any protected characteristic and caring responsibilities	To improve knowledge on E&D creating a more inclusive work and patient environment.	All staff have equal opportunities and receive the right support to achieve their potential in the organisation and avoid discrimination in all aspects of employment across all groups	N/A	
Does the service, leaflet or policy/ development impact on community safety • Crime • Community cohesion	No issues	All staff to receive E&D training both general and topic specific to improve knowledge and understanding which will impact on community cohesion (acute and community settings)	Equal Opportunities should improve the retention of experienced competent staff and enhance commitment of the staff across all groups	N/A	
Is there any evidence that groups who should benefit do not? i.e. equal opportunity monitoring of service users and/or staff. If none/insufficient local or national data available consider what information you need.	No evidence at this stage to suggest any group may benefit. Monitoring of protected characteristics will assist in identifying groups who may disadvantaged	None at this stage	Policy is expected to benefit all staff in achieving equal opportunities in an inclusive environment	N/A	
Does the service, leaflet or development/ policy have a negative impact on any geographical or sub group of the population?	Although this policy is for staff it should not impact on any geographical or sub group of the population	N/A	Equal opportunities assists in creating an inclusive approach for all	N/A	
How does the service, leaflet or policy/ development promote equality and diversity?	This policy promotes E&D in employment and to avoid unlawful discrimination	Promote equal opportunities and ensure the workplace is free from harassment, bullying and victimisation for all groups.	Yes by encouraging equal opportunities across all protected characteristics to create an inclusive organisation.	N/A	
Does the service, leaflet or policy/ development explicitly include a commitment to equality and diversity and meeting needs? How does it demonstrate its impact?	The policy includes a commitment to E&D and meeting the needs of staff. Impact is demonstrated via monitoring of the protected characteristics which will show if any group is disadvantaged.	To ensure everyone is treated with dignity and respect in the workplace and has the same opportunity and access for progression and development	All staff are given the same opportunities irrespective of protected characteristics.		
Does the Organisation or service workforce reflect the local population? Do we employ people from disadvantaged groups	Our systems do not allow us to record this data but we encourage people from any diverse group to work for the Trust whenever possible	Encourages people from disadvantaged groups to work in the Trust. Amend our systems to record such data	The workforce is reflective of the community we serve.		
Will the service, leaflet or policy/ development i. Improve economic social conditions in deprived areas ii. Use brown field sites iii. Improve public spaces including creation of green spaces?	N/A	N/A	N/A	N/A	

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Does the service, leaflet or policy/development promote equity of lifelong learning?		Encourages the equity of lifelong learning by promoting equal opportunities for all staff	Policy is expected to benefit all staff to have the same opportunity and access for learning and development	N/A
Does the service, leaflet or policy/development encourage healthy lifestyles and reduce risks to health?	N/A	N/A	N/A	N/A
Does the service, leaflet or policy/development impact on transport? What are the implications of this?	N/A	N/A	N/A	N/A
Does the service, leaflet or policy/development impact on housing, housing needs, homelessness, or a person's ability to remain at home?	N/A	N/A	N/A	N/A
Are there any groups for whom this policy/ service/leaflet would have an impact? Is it an adverse/negative impact? Does it or could it (or is the perception that it could exclude disadvantaged or marginalised groups?	This policy should not have any adverse impact on any group of staff	The policy encourages inclusion for people from all groups and backgrounds to be treated equally during their employment	Support is given to employees to achieve their potential which will benefit the organisation by having a diverse range of skills, experience and knowledge.	N/A
Does the policy/development promote access to services and facilities for any group in particular?	N/A	N/A	N/A	N/A
Does the service, leaflet or policy/development impact on the environment	N/A	N/A	N/A	N/A
<ul style="list-style-type: none"> • During development • At implementation? 				
ACTION:				
Please identify if you are now required to carry out a Full Equality Analysis		Yes	No	(Please delete as appropriate)
Name of Author:	Tina Daniels Equality and Diversity Lead		Date Signed:	27th May 2015
Signature of Author:				
Name of Lead Person:	Tina Daniels Equality and Diversity Lead		Date Signed:	27th May 2015
Signature of Lead Person:				
Name of Manager:	Head of Human Resources		Date Signed:	
Signature of Manager				

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