

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

**BETWEEN**

**THE ASSOCIATION OF COLLEGES (AoC)**

**AND**

**ASSOCIATION FOR COLLEGE  
MANAGEMENT (ACM)**

**ASSOCIATION OF TEACHERS &  
LECTURERS (ATL)**

**GMB**

**UNIVERSITY AND COLLEGE UNION (UCU)**

**UNISON**

**UNITE - THE UNION**

**November 2009**

## **1. INTRODUCTION**

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

## **2. OUR COMMITMENT**

- 2.1 The College celebrates and values the diversity of its workforce. It believes that the College will benefit from employing both disabled and non-disabled people at all levels of responsibility, and across all areas of work. This will also provide role models across the curriculum and the various functions of the College. The College is committed to equality of treatment for all employees. This will apply to the operation and implementation of all its employment policies. The College will treat all employees with respect and dignity, and seek to

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

provide a positive working environment free from disability discrimination, harassment or victimisation.

- 2.2 The College will seek not only to eliminate disability discrimination, but also to create a working environment based on good relations between disabled people and non-disabled people. To this end, the College undertakes to provide diverse images in any material which it produces, including positive images of people with a range of impairments. The aim is to create a positive inclusive ethos with a shared commitment to challenging and preventing stereotyping, prejudice and disability discrimination, to respecting diversity and difference, and to encouraging good relations between disabled people and non-disabled people.
- 2.3 The College will involve disabled people in the development and monitoring of its Disability Equality Scheme (DES).<sup>ii</sup>
- 2.4 The College will work towards the elimination of prejudice, harassment, bullying and discrimination, whether overt or covert, and will seek to ensure that all staff have equal access to the full range of college facilities.
- 2.5 Most of the detail of this policy relates to those staff who have declared an impairment. However, the College will seek to fulfil its duty of care to those staff who do not disclose an impairment, but who the college as employer could reasonably have been expected to know of the existence of such an impairment.
- 2.6 The College will work with trade unions and staff networks including disabled staff to endeavour to create a positive and secure culture for disclosure.
- 2.7 Where information is divulged in confidence, every attempt will be made to respect this.
- 2.8 The College will accept all recommendations made after an assessment carried out under the Access to Work Scheme, and will make all the required contributions towards the cost of providing the recommended reasonable adjustments.
- 2.9 The College will ensure that there is no discrimination in its policies, procedures or actions including discrimination for association.

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<sup>ii</sup> Any reference to Disability Equality Scheme shall be taken to mean Single Equality Scheme where applicable  
Joint Agreement on Guidance for Disability Equality in Employment in Further Education Colleges  
November 2009

### **3. OUR LEGAL DUTIES**

3.1 The College undertakes to fulfil all the legal duties put upon it by:

- The Disability Discrimination Act 1995, the Disability Discrimination Act 2005 and the associated Guidance and Codes of Practice, especially “The Code of Practice – Employment and Occupation” and “The Duty to Promote Disability Equality – Statutory Code of Practice”. This means there will be no discrimination against staff or applicants on grounds of disability status in access to employment, training, working conditions, terms of employment, treatment at work, promotion or dismissal. The College undertakes to fulfil its duty to make reasonable adjustments to enable staff to do their work, and not to treat disabled staff less favourably than non-disabled staff.

3.2 The College agrees that there are six inter-related legal requirements to the “general duty” or “disability equality duty (DED)”. The College in carrying out its functions, agrees to have due regard to the need to:

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

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

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

### **4. RECRUITMENT AND SELECTION**

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

4.2 The College will ensure that:

- 4.2.1 Job descriptions will be drafted to ensure they do not exclude disabled people.
- 4.2.2 Recruitment materials will be made accessible in the applicant's preferred format.
- 4.2.3 Interviews will be fully inclusive, and reasonable adjustments will be made to allow disabled candidates to attend and participate in the interview without being placed at a disadvantage.

4.3 The College undertakes that:

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

## 5. APPOINTMENT

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

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

- Adjusting the premises
- Allocating some of the duties to another person
- Altering working hours
- Allowing time off for treatment, rehabilitation or therapy
- Making College materials available in the preferred format
- Acquiring or modifying equipment
- Supplying additional training (providing training in the use of particular pieces of equipment unique to the disabled person and ensuring this training is held at accessible venues)

- Altering communication in the workplace (providing a sign language interpreter, reading to a visually impaired person at particular times during the day, working with the previous postholder for a transitional period, providing noise level meters, overhead projectors, laptop facilities etc).
- 5.2 The College will discuss with the new appointee and relevant experts what reasonable adjustments are needed. If there is not sufficient expertise available in the college to deal with a particular reasonable adjustment, the College will seek the advice of the Disability Employment Adviser under the Access to Work scheme or other specialist advisers.
- 5.3 Where adaptations are to be introduced that affect other employees, notification will be given to those employees and their union representatives, and the most suitable arrangement for all parties will be reached.

## **6. CAREER DEVELOPMENT**

- 6.1 All employees shall have equal rights to training, promotion and other aspects of career development. Reasonable adjustments will not be used to justify a failure to promote or train any employee.
- 6.2 The College undertakes that all the training and staff development that it provides will be fully accessible to all, including venues, materials and provision of support staff if required.
- 6.3 An appropriate manager or the line manager of staff who have declared they are disabled will ask such staff at least once a year if their needs have changed, and if any steps need to be taken to ensure that their development needs are met.

## **7. RETENTION**

- 7.1 The College undertakes to make every effort to ensure that an employee who acquires an impairment which makes it impossible for them to do their existing job and who wishes to remain in employment is enabled to do so. Should the employee wish to be redeployed to a vacant job they can do, the College undertakes to make every effort to redeploy them, including providing training and adjustments where necessary. Case law has established that redeployment to a higher graded post can be regarded as a reasonable adjustment.

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

## **8. DISABILITY LEAVE**

- 8.1 An employee who acquires an impairment and declares this to the College should have the right to a meeting with their line manager, work college or their trade union representative, and a member of personnel/human resources staff. At this meeting, the needs of the employee should be discussed and agreed. Medical and other advice might also be sought about the employee's needs, which might include a period of paid disability leave.
- 8.2 It is good practice to consider giving a reasonable period of paid disability leave to individuals where the appointment, activity or training cannot be taken outside of work time. The period of disability leave should be agreed between the employee and line manager, with assistance from a work colleague or trade union representative as appropriate, taking account of the need to balance each individual's circumstances with the needs of the College. This period of leave should be regularly reviewed to ensure that the agreed arrangements remain fit for purpose. Examples of when this leave may be appropriate include:
- A period where an employee is well but requires training to work with a guide dog or using new equipment
  - A prolonged period of treatment or rehabilitation
  - A period of time to recuperate from treatment
  - A period of time to complete an assessment relating to adjustments
  - A period where the employee is waiting for the College to complete the making of reasonable adjustments.
- 8.3 Disability leave will not be included for the purposes of assessing performance, promotion, attendance, selection for redundancy, and similar issues unless there are exceptional circumstances in relation to the agreed leave.
- 8.4 Further detail on the operation of disability leave is contained in Appendix 1.

## **9. DISABILITY-RELATED ABSENCE**

- 9.1 If a person is absent due to illness or injury for an impairment related reason, payment for the leave comes from the entitlement to sickness pay, but it should be recorded as disability-related absence. Whilst this should not exceed the maximum sick pay allowance, it is acknowledged that there may be circumstances where it is a reasonable adjustment to extend the period of leave beyond the employee's sick pay entitlement.
- 9.2 It may be a reasonable adjustment to consider disability-related absence differently under the College's normal sickness absence procedure. For example it may be reasonable to consider using different trigger points for the scheduling of sickness review meetings where the absence is disability related.
- 9.3 Paid time off for disability-related medical appointments will be granted at all times. Employees who can control the timing of their appointments/treatment should consider the needs of the college.

## **10. DISMISSAL**

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

## **11. HARASSMENT**

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

## **12. MONITORING AND POSITIVE ACTION**

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

## **13. ENSURING EQUALITY FOR DISABLED PEOPLE**

- 13.1 The College is committed to work to eliminate prejudice and discrimination in employment practices, as well as to encourage changes in individual behaviour and attitudes, and ensure equality between disabled and non-disabled people.
- 13.2 If staff monitoring shows that there is an under-representation of disabled people at any level within the college, it will take positive action by reviewing its recruitment, promotion and training practices to ensure they are free of bias, contain no barriers to disabled people and consider advertising in publications more likely to be read by disabled people.

- 13.3 The College recognises that many of the problems experienced by disabled people are due to lack of knowledge of their needs by those around them. The College undertakes to provide disability equality training to all its staff. This will include examination of the appropriate use of language.
- 13.4 The College will ensure that its publications and publicity material promote positive images of disabled people in both language and illustration.

## **14. PART-TIME WORKING**

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

## **15. DISABILITY EQUALITY SCHEME**

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

## **16 IMPACT ASSESSMENT**

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

## **17 DIVISION OF RESPONSIBILITIES**

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

Governors are responsible for ensuring that:

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

- 17.2 The Management Team are responsible for ensuring that:

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

17.3 Staff are responsible for ensuring that:

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

## **18 PUBLICISING THE COLLEGE'S POLICY AND PROGRESS**

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

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

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

18.2 To staff:

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

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

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

## **19 COMPLAINTS**

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

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

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

19.4 If, in the course of their work, College staff experience disability discrimination from members of the public, the College will take appropriate action and provide appropriate support.

19.5 Any discriminatory behaviour directed against staff by students will be dealt with under the student disciplinary procedure.

## **20 REVIEW AND CONSULTATION**

20.1 The College will review their policy on a regular basis in accordance with legislative developments and the need for good practice, by utilising the College Equality Forum, Disabled Staff Network, or appropriate equivalent body.

- 20.2 As part of the review the Equality Forum will seek and take into account the views of stakeholders including recognised trade unions and appropriate equality bodies (i.e. EHRC).
- 20.3 This agreement will be subject to regular monitoring and review and any amendment will be by agreement within the Joint National Negotiating Forum.

## **21 IMPLEMENTATION**

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

## **22 GENERAL**

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

## **23 DEFINITION OF JOINT AGREEMENT**

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

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

**SIGNATURES OF THE PARTIES TO THIS AGREEMENT**

AoC *Nick Lewis*

ACM *Bobdell*

ATL *S. Crane*

GMB *R. Azar*

UCU *Burgoyne*

UNISON *C. Kelly*

UNITE *Mike Robinson*

Date of Commencement of this Agreement: November 2009

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

## **Appendix One – Disability Leave**

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

undergo a more prolonged period of treatment, rehabilitation or recuperation.

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