

UNIVERSITY OF KENT

**DISABILITY IN EMPLOYMENT
POLICY AND PROCEDURE**

**University of
Kent**



**AVAILABLE IN LARGE PRINT OR ALTERNATIVE FORMAT ON REQUEST
TO THE EQUALITY AND DIVERSITY OFFICE.**

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POLICY

In the context of its aim to value all staff and treat them equitably and fairly, and as part of its aim to achieve a more diverse workforce, the University welcomes applications from people with disabilities, values the contribution of existing staff with disabilities, and will treat staff fairly should they become disabled.

The University

- Welcomes applications for employment from people with disabilities,
- Will interview all applicants with a disability who meet the minimum criteria for a vacancy and consider them on their abilities,
- Will make reasonable adjustments to both working practices and the working environment to ensure that disabled people are not disadvantaged in comparison with others to whom the reason does not or would not apply,
- Will take action to ensure that all employees develop the appropriate level of disability awareness needed to foster an inclusive community, and
- Will regularly review its policy and plan ways to improve it.

1. PURPOSE

The overall purpose of this policy is to develop and maintain a working environment, and to offer terms and conditions of service, which will enable suitably qualified persons with a disability to seek and maintain employment with the University wherever practicable.

The policy aims to comply with the requirements of the Disability Discrimination Act 1995, and the wider expectations of the University Equality and Diversity Policy. The University is also a Positive about Disability Symbol User, and accepts the commitments arising from this. (See Appendix A.)

2. SCOPE

This policy applies to all applicants, new recruits (whether recruited centrally or within Departments or Sections) and existing members of staff regardless of their contract type, and applies to all sites of the University.

This policy should be applied in conjunction with the Sickness Absence Policy, the Health and Safety Policy, and the Equality and Diversity Policy.

Staff should also make themselves aware of the Student Disability Policy (2003). All employees of the University have a responsibility to comply with this policy which is committed towards aiding and enabling students with physical and mental disabilities, sensory impairments and learning difficulties to take part in all aspects of the University's academic and social programmes.

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3. LEGISLATION

3.1 The Disability Discrimination Act 1995 (DDA)

This Act makes it unlawful to discriminate against people who have a disability in relation to employment, goods, facilities and services, and since 2000, education.

The DDA defines disability 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.' (See Appendix A for further details and examples.)

3.2 Discrimination can occur in two ways:

1. For a reason which relates to a person's disability, the employer treats that person less favourably than the employer treats, or would treat, others to whom the reason does not apply AND the employer cannot show that this treatment is justified.
2. Where an employer fails to comply with a duty of reasonable adjustment imposed in relation to the disabled person AND cannot show that this failure is justified.

3.3 Duty to Adjust:

There is a statutory duty under the Act to make *reasonable* adjustments to both working practices and the working environment, to ensure that disabled people are not disadvantaged in comparison with someone who does not have a disability.

E.g. purchase of an adapted computer; re-allocating duties within a team; altering working hours; altering the direction a door opens for wheelchair access.

This is a University-wide responsibility supported by Access to Work Grants (from Department of Work and Pensions). (See Appendix C for application procedure.)

3. RESPONSIBILITIES

These responsibilities are consistent with the DDA Code of Practice which is admissible in evidence in any proceedings under the Act before an employment tribunal or court.

4.1. EMPLOYER

The Council and Management of the University are responsible for the health, training and development and terms and conditions of our staff, and for ensuring that there are fair and consistent procedures in place in order to fulfil

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this responsibility, and for ensuring that appropriate resources are available centrally.

4.2. RESPONSIBILITY OF MANAGERS

General responsibility for the development, implementation, and monitoring of this policy lies with the Director of HR.

Heads of Department and Heads of Section have the following responsibilities:

- implementation of the policy in the Department and Section;
- ensuring that managers and staff are aware of, and follow the policy;
- to be alert to significant changes in health of staff, even when not notified, and to take appropriate advice and action;
- Once a manager becomes aware of an employee's disability, they must ensure that HR and Occupational Health are alerted. This will be the case even if the disabled person specifically asked for such information to be kept confidential.
- consideration of relevant adjustments;
- Attending training and ensuring staff attend as appropriate.

4.3 RESPONSIBILITY OF EMPLOYEES

- Staff of the University are expected to be aware of this policy and to treat those with disabilities with respect and in accordance with these provisions. Regular training and awareness briefings are offered through the Staff Development Programme, and all staff are expected to attend.
- Staff who become disabled while employed, are invited to inform HR.

5. CONFIDENTIALITY

All applicants are asked on the Equal Opportunity monitoring form to disclose if they have a disability so that adjustments can be made at the interview stage. This information is restricted to HR and the Panel.

The Act does not prevent a disabled person keeping a disability confidential, however, it must be explained to new recruits, or current staff on becoming disabled, by HR, Occupational Health or Managers, that if they choose to keep their disability confidential, this may have implications for the degree of adjustments that can be made for them.

PROCEDURES

6. RECRUITMENT AND SELECTION

6.1. Recruitment

The University operates within the 'Positive about Disability' Employment Pledge (The Double Tick Symbol). (See Appendix B.)

Every vacancy will be open to suitably qualified persons with a disability, subject to safety considerations, and with the exception of any posts that may be internally ring-fenced for staff who may be at risk of redundancy as a result of organisational change.

In accordance with the double tick pledge, the University guarantees to interview all disabled applicants who meet the minimum (essential) criteria of the person specification for a job vacancy.

No decisions about applicants for posts will be taken except by selection panels.

At interview, any reasonable adjustment must be made that is needed to ensure that a person with a disability is not at a substantial disadvantage compared to other applicants.

Prior to any offer being made an assessment will be carried out (by Occupational Health and Managers) to determine adjustments that may need to be considered, and whether they are reasonable and practicable.

The following issues should also be addressed at this point:

- **Health and safety:** Special arrangements may be necessary to ensure that a person's disability does not create any hazard either for themselves or for others. Risk assessments should be undertaken. (Please refer to the Health and Safety Office for further advice.)
- **Travel to Work:** In certain cases, Access to Work grants can be arranged. (Please refer to the Equality and Diversity Manager.)
- **Disability Leave:** It should be treated as a 'reasonable adjustment' to allow a person with a disability time off from work because of the disability, for treatment or for rehabilitation. (For further information, please refer to the Sickness Absence Policy, HR and the Occupational Health office should also be consulted.)

6.2. Selection

When drawing up Person Specifications, staff should be careful to distinguish between the essential and desirable criteria to be used to consider applications for posts, since, arising from our commitment to the Double Tick Pledge, all applicants who disclose a disability are entitled to interview if they meet the essential criteria.

University members of interview panels should attend Recruitment and Selection Training and Disability Awareness sessions. At selection,

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interviewers must look at the ability of someone to perform the job, and focus on the Person Specification. *In that way, decisions on appointments will be based solely on merit.*

Access to Work grants (Department of Work and Pensions) are available to cover the cost of reasonable adjustments. (See Appendix C)

For further information on Recruitment and Selection, please refer to the Recruitment and Selection Guidelines www.kent.ac.uk/human-resources/pdfs/code.pdf

7. TRAINING

Wherever reasonable and practicable, adjustments will be made to enable all staff with a disability to have access to training and development opportunities.

8. FACILITIES

8.1 Car Parking: Staff who find they have access difficulties should apply to Estates for use of reserved bays for disabled drivers or passengers.

8.2 Room Allocation: Timetabling Office holds and publicises a list of all teaching rooms which include those that are accessible to wheelchair users. Please see www.kent.ac.uk/ettoffice

8.3

It is the responsibility of those who arrange meetings and seminars to ensure that they have booked a room which is accessible and suitable to staff with mobility needs, and with visual or hearing impairment. If this is not possible, it is the responsibility of the organiser to make this clear in all publicity, and to offer to make alternative arrangements where possible.

Clutter in rooms, and in corridors, is one of the greatest detriments to people with various forms of disability. It is the responsibility of all staff to ensure that rooms and corridors are kept clear and accessible.

8.4 Sports Hall: Many of the facilities are available to staff with disabilities. Please contact Sports Centre Reception ext 3623

9. PHYSICAL ACCESS

The University recognises that access to many of our buildings is difficult and that improvements are required. A comprehensive Access Audit was carried out in 2001 and Estates are now following an action plan for improvements and alterations. The use of Access Statements will ensure that all new building and refurbishment projects are both fully inclusive and accessible. For further information on this please contact the Director of Estates.

10. RETENTION

The University will aim to continue employing any individual who becomes disabled and will explore ways in which this can be achieved with as much flexibility as is operationally possible.

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If such a situation arises, staff and managers should seek advice as soon as possible from HR, the Equality and Diversity Manager, and Occupational Health Service.

Staff who become disabled whilst employed by the University, may be eligible for the arrangements outlined above for Travel to Work, Access to Work Grants, and Disability Leave (see Recruitment section 6 above).

The University will consider reasonable adjustments and alternatives to enable a person to remain employed, for example:

- continuing in the same post, with reasonable adjustments;
- Redeployment, with training if necessary (to other Departments or Sections if appropriate).

If neither of these is possible, then the University will enter into a consultation process according to HR procedures, regarding options, which will include:

- premature retirement on grounds of incapacity;
- Termination of employment.

11. HARASSMENT

Harassing a person with a disability on account of that disability is unacceptable behaviour, contravenes our Equality and Diversity Policy, and is unlawful under the terms of the Disability Discrimination Act.

For support and advice, refer to a Harassment Contact. Details of these can be found in the University Harassment Policy at www.kent.ac.uk/registry/HR/policies/equal.opps/haraspol.htm

12. GRIEVANCE PROCEDURE

Any employee who considers that s/he has been treated unfairly, discriminated against or harassed on the grounds of their disability may raise a grievance through the University Harassment or Equality and Diversity procedures.

These can be consulted at www.ac.uk/human-resources/policies/equal.opps/index.htm

Job applicants have the right to have claims of discrimination or harassment investigated by the HR Department.

13. DISABILITY NETWORK GROUP

The University has established a Disability Network Group, including representation from staff with a disability, whose remit is to liaise with Estates, Students Union and staff regarding access and issues that impinge on staff or students with disabilities. For concerns on staffing matters, issues for the Network should be brought to the Equality and Diversity Manager in the first instance.

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The Disability Network Group has responsibility for supporting the Director of HR in monitoring and evaluating the success of this policy.

14. MONITORING AND REVIEW

In accordance with the 'Positive about Disability' Scheme which the University is a member of, staff will be consulted annually to ensure their individual situation is being treated appropriately.

- Staff known to HR will receive individual, confidential letters
- Ways will be sought, including a general notice in the Newsletter, inviting contact by any member of staff who considers they have a disability-related need.

Anonymised statistics of staff with disabilities will be analysed regularly to report on trends and ensure fairness of recruitment, selection and progression.

15. Further Help and Guidance - Please contact:

HR Department	ext. 7123
Equality and Diversity Manager	ext. 3956
Occupational Health Adviser	ext. 3563
Director, Safety, Health and Environment	ext. 3980
Disability Rights Commission	08457 622 633 www.drc-gb.org

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Appendix A

Definitions of Disability (From 'Employing Disabled People' Information Card 5, Department of Education and Employment)

Physical impairment: this includes, for instance, a weakening of part of the body (eyes, ears, limbs, internal organs etc) caused through illness, by accident or congenitally. Examples would be blindness, deafness, and paralysis of a leg or heart disease. Severe disfigurement is treated under special provisions as counting as a physical impairment.

A very broad range of conditions have been held by tribunals to qualify as disabilities on the facts of particular cases, including: sciatica; epilepsy; pain from kidney stones; rheumatoid arthritis; diabetes; sharp abdominal pains (undiagnosed); ME (chronic fatigue syndrome); asthma; visual impairments; and spinal, arm and leg injuries.

Future legislation is likely to give greater protection against discrimination for those diagnosed with cancer and HIV/AIDS.

Mental impairment: this includes a clinically well-recognised mental illness and what is commonly known as a learning disability. Addictions are excluded.

Substantial: this means the effect of the physical or mental impairment on ability to carry out normal day to day activities is more than minor or trivial. It does not have to be a severe effect. Conditions, which progressively deteriorate, such as multiple sclerosis, cancer, muscular dystrophy and HIV, count as having substantial adverse effect from the first time they have any effect, so long as there is eventually likely to be a substantial adverse effect.

Long-term adverse effect: The effect has to have lasted, or be likely to last, overall for at least 12 months and effect must be a detrimental one. Recurring or fluctuating conditions such as arthritis are treated as continuing so long as the effect is likely to recur

A normal day to day activity: this is something which is carried out by most people on a fairly regular and frequent basis, such as washing, eating, catching a bus or turning on a television.

What sort of effect must there be? The person must be affected in at least one of the respects listed in the Act: 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 risk of physical danger.

What happens if the effects are reduced by medication or other treatment?

The effects that matter are those that would be present if there was no medication or treatment taking place. (The exception is people who wear glasses or contact lenses).

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Appendix B

Positive About Disability The Five Commitments. (The Employment Service)

Commitment 1

To interview all applicants with a disability who meet the minimum criteria for a vacancy and consider them on their abilities.

Commitment 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.

Commitment 3

To make every effort when employees become disabled to make sure they stay in employment.

Commitment 4

To take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work.

Commitment 5

Each year, to review the five commitments and what has been achieved, to plan ways to improve on them and let all employees and the Employment Service know about progress and future plans.

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Appendix C

Access to Work Grants - Procedure

Access to Work helps individual people with disabilities meet the cost they need to do specific jobs - help non-disabled people doing to same jobs would not need. Support may include aids and equipment (text phones, adapted computers, audio-equipment etc), adaptations to premises, travel to work, and personal help.

The Employment Service makes contributions towards the costs of equipment as follows:

new recruits (until 6 weeks in post)	up to 100% of approved costs for three years
employed applicant	up to 80% of approved costs above a threshold of £300

It is for the individual to apply to the Access to Work Team of the Employment Service (address available from HR). They will then contact the University, through HR, to corroborate the needs and arrange consultation and evaluation and purchase of the most appropriate equipment.

The University meets the 20% contribution, when appropriate, from central funds.

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