

Lead Employer Trust

Disability Policy

POLICY INFORMATION SHEET

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Summary of Changes

Date of Change	Changes made	Location of changes	Changes approved	Version Control
November 2014	Document review	No changes	November 2014	1.0
February 2015	Update to incorporate GP Practices	Pages 5 and 8	May 2015	2.0
March 2017	Removed 'Positive About Disabled People' section as Two Tick Scheme no longer exists	Page 5		3.0
March 2018	Letter Head Change	Whole document		4.0
May 2019	Review – No Changes			5.0
December 2019	Review to include Foundation Doctors	No change	March 2020	6.0
October 2020	Document Review	All Pages		6.0
December 2021	Document Review	All Pages		7.0
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May 2023	Equality Impact Assessment	Page 10	30 th May 2023	7.0

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1. INTRODUCTION

The Equality Act 2010 makes it unlawful for the Lead Employer Trust (LET) to discriminate against current and prospective employees with disabilities because of a reason relating to their disability. The LET may have to make reasonable adjustments if our employment arrangements or the host training organisation's premises substantially disadvantage a disabled employee. The LET will also have to consider suitable alternative employment in those circumstances where an employee is disabled within the meaning of the Act and can no longer carry out their current role (LET Rehabilitation & Redeployment Policy).

There will be some cases where an employee is clearly disabled, and a manager has no doubt that the Equality Act applies. However, there will also be some instances where managers are not sure if a person is disabled within the meaning of the Act or not. In these cases, managers should seek further advice or guidance either from the LET HR Department and/or Occupational Health. Assumptions should not be made that because someone appears to be well or able bodied that they are not therefore disabled within the meaning of the Act.

2. SCOPE OF THE LEGISLATION

The Equality Act 2010 prevents discrimination, harassment or less favourable treatment on the grounds of nine 'protected characteristics', one of which is Disability. The types of discrimination are:

- **Direct Discrimination:** where someone is treated less favourably than another person because of their disability.
- **Discrimination by Association:** Direct Discrimination against someone because they associate with a person with a disability, e.g. a parent of a disabled child, or an employee with a disabled partner or friend.
- **Discrimination by Perception:** Direct discrimination against someone because others perceive they have a disability.
- **Indirect Discrimination:** where a policy or procedure which applies to everyone disadvantages a person with a disability.
- **Harassment:** employees can complain of behaviour they find offensive, even if it is not directed at them.
- **Harassment by a Third Party:** Employers are potentially liable for Harassment of their staff on the grounds of disability by people they do not employ.
- **Victimisation:** where someone is treated badly because they have made a complaint or raised a Grievance.

In the Act, a person has a disability if:

- they have a physical or mental impairment; and
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities.

For the purposes of the Act, these words have the following meanings:

- **'substantial'** means more than minor or trivial;
- **'long-term'** means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions);
- **'normal day-to-day activities'** include everyday things like eating, washing, walking and going shopping.

People who have had a disability in the past that meets this definition are also protected by the Act.

2.1. Progressive conditions considered to be a disability

There are additional provisions relating to people with progressive conditions, whereby the initial effect on their ability to carry out normal day-to-day activities may not be sufficiently serious to amount to a substantial adverse effect. In such circumstances, they are treated as disabled if their condition is likely to have a substantial adverse effect on their day-to-day activities in future. Progressive conditions increase in severity over time. People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis. People with some visual impairment are automatically deemed to be disabled.

2.2. Conditions that are specifically excluded

Some conditions are specifically excluded from being covered by the disability definition, such as addiction to alcohol, nicotine or any other substance, pyromania, kleptomania, hay fever and a tendency to be abusive physically or sexually. However, whilst such conditions are excluded, they can lead to an impairment if it has a substantial and long-term adverse effect on their day-to-day activities. An example would be alcoholism – the condition itself would not be an impairment but any liver damage as a result may be covered if it meets the disability definition.

2.3. Disabilities controlled by medication or special aids

Generally, a person with a disability is protected by the legislation even if he or she successfully controls or corrects his or her disability by medication or prosthesis (e.g. individuals with epilepsy controlled by medication). However, an individual with a sight impairment which is corrected by spectacles or contact lenses is not protected by the legislation. If someone can reasonably be expected to modify his or her behaviour to prevent or reduce the effects of an impairment on normal day-to-day activities (for example, by using a coping or avoidance strategy) then that person's condition might not meet the definition of disability.

3. EMPLOYMENT

The legislation states that less favourable treatment is justified if, its 'a proportionate means of achieving a legitimate aim.' Direct Discrimination cannot be justified in this way, only indirect discrimination i.e. for a reason relating to the disability rather than the disability itself.

In order to be deemed 'a proportionate means of achieving a legitimate aim', the employer must show:

- That the provision, criterion or practice is fair and reasonable and that "less discriminatory" alternatives have been considered.
- There is a legitimate aim for the provision, criterion or practice, such as a good business reason.

For example, the disabled person might be otherwise well qualified for the position, but the evidence might support a real fear that there is a clear and unacceptable health and safety risk to the disabled worker or others. In these circumstances, a qualified person should undertake a risk assessment.

The legislation also states that less favourable treatment cannot be justified where an employer is under a duty to make a reasonable adjustment but fails to do so.

For example, an applicant with a hearing impairment is not offered a job as a receptionist because he or she will not be able to communicate over the telephone. However, if a reasonable adjustment would have enabled the applicant to communicate over the telephone (e.g. providing a telephone

amplifier or some other telecommunications device), the reason for not offering the job would not have applied, and therefore, the failure to offer the applicant the job would not be justified.

The LET is committed to treating all applicants and employees on individual merit. This applies to all aspects of employment, including recruitment, training, promotion and dismissal.

The LET will not discriminate against people with disabilities when recruiting. Thus, due care will always be taken with regard to:

- Job specifications;
- Job applications;
- Selection processes (including the timing of interviews and their location);
- Assessment techniques;
- Terms and conditions of employment offered.

All areas of employment are covered including:

- The terms and conditions of employment;
- Induction;
- Promotion, transfer, training or any benefit or opportunities;
- Occupational pensions;
- Dismissal.

Discrimination in any of these areas is unlawful.

Post-termination discrimination is also unlawful; the legislation protects former employees from Harassment or detriment (e.g. in the giving of references).

4. DUTY TO MAKE REASONABLE ADJUSTMENTS

Where any provision, criteria or practice (e.g. recruitment and selection procedures) made by or on behalf of the LET, or any permanent or temporary physical feature of premises (e.g. exit from or access to a building) place an individual with a disability at a substantial disadvantage in comparison with persons who are not disabled, both the LET and the host training organisation is legally obliged to make a reasonable adjustment. A substantial disadvantage is one that is not minor or trivial.

Under its duty of care, the LET will consider, with communication, support and commitment from the host training organisation, on a continuous basis, what reasonable adjustments might need to be made to overcome any detriments, making any changes which are reasonable.

Examples of these may include:

- Adjusting premises;
- Re-allocation of non-key duties to others;
- Redeployment (with training where applicable) to existing vacancies¹;
- Altering working hours;
- Assigning him or her to a different place of work;
- Allowing him or her to be absent during working hours for rehabilitation, assessment or treatment;
- Giving or arranging for training or mentoring, for the disabled person or any other person;
- Acquiring or modifying equipment;
- Modifying instructions or reference manuals;

¹ The Lead Employer Trust employs doctors and dentists on approved training programmes holding a National Training Number (NTN) or Deanery Reference Number (DRN). As such, we are governed by Health Education England, General Medical Council (GMC), General Dental Council (GDC) and the Royal Colleges.

- Modifying procedures for testing or assessment;
- Providing a reader or interpreter;
- Providing supervision or other support.

What will be reasonable will depend upon the individual circumstances. The following factors will be considered by the LET and host training organisation when determining whether an adjustment is a reasonable adjustment:

- The effectiveness of the step in preventing the disadvantage;
- The extent to which it is practicable for the LET and host training organisation to make the adjustment;
- The financial and other costs which would be incurred by the host training organisation and/or LET in making the adjustment and the extent to which making it would disrupt any of the host training organisation and LET's activities;
- The extent of the LET's financial pressures and other resources;
- The availability to the LET of financial or other assistance with respect to making the adjustment for example, from the Access to Work Scheme;

Note: There is no statutory limit on the cost of a reasonable adjustment. Funding may be available from outside agencies, including "Access to Work" towards the cost, and needs to be taken into account in considering reasonableness.

The manager in conjunction with advice from the LET HR Department can decide what adjustments it is feasible or practical to implement.

5. COMPLAINTS

Any individual with disabilities who feels the LET has discriminated against them should initially raise the issue with the LET HR Department. If the matter cannot be resolved to their satisfaction, they should raise the matter through the LET Grievance Procedure.

Any disabled person who feels they have been subjected to harassment in the workplace should report the matter through the LET 'Dignity at Work' Policy.

6. FURTHER INFORMATION AND ADVICE

Regardless of job role, should employees require additional information or advice on any aspect of the employment of people with disabilities they can contact the LET HR Department or Trade Union Representative.

The Access to Work Scheme at the Job Centre Plus is also available to provide expert advice and support. The Scheme may be able to offer assistance with adaptation to premises, communication support at interview, special aids and equipment, support workers and travel to work.

The Code of Practice in relation to employment can be obtained free of charge at the Commission for Equality & Human Rights website at www.equalityhumanrights.com.

7. EQUALITY AND DIVERSITY STATEMENT

The LET is committed to providing equality of opportunity, not only in its employment practices but also in all the services for which it is responsible. As such, an Equality Impact Assessment has been carried out on this policy to identify any potential discriminatory impact. The LET also values and respects the diversity of its employees and the wider community it serves. In applying this policy, representatives of the LET will have due regard for the need to:

- Eliminate unlawful discrimination;
- Promote equality of opportunity;
- Provide for good relations between people of diverse groups.

For further information, please refer to the Equality Diversity and Human Rights Policy.

8. MONITORING AND REVIEW

The Head of Human Resources in the LET is responsible for monitoring the application of this policy and to ensure that the policy is reviewed no later than three years from the date of issue. The policy may be amended at any time by joint agreement.

9. REFERENCES/LEGISLATION

- Equality Act 2010
- LET Equality, Diversity & Human Rights Policy
- LET Rehabilitation and Redeployment Policy
- www.equalityhumanrights.com

Equality Impact Assessment

Preliminary Assessment Form

v1/2009

The preliminary impact assessment is a quick and easy screening process.

It should:

- Identify those policies, procedures, services, functions and strategies which require a full EIA by looking at:
 - negative, positive or no impact on any of the equality groups
 - opportunity to promote equality for the equality groups
 - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

Division/Department

LET HR Department

Title of policy, procedure, function or service

Disability Policy

Type of policy, procedure, function or service

- Existing X
- New/proposed
- Changed



Q1 - What is the aim of your policy, procedure, project or service?

To provide guidance to managers and employees on the legal requirements applicable to employees who are disabled.

Q2 - Who is the policy, procedure, project or service going to benefit?

All LET Employees

Q3 - Thinking about each group below, does, or could the policy, procedure, project or service have a negative impact on members of the equality groups below?

Group	Yes	No	Unclear
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Age		X	
Disability		X	
Race		X	
Gender		X	
Transgender		X	
Sexual Orientation		X	
Religion or belief		X	
Marriage & Civil Partnership		X	
Pregnancy & Maternity Leave		X	
Relationships between groups		X	
Other socially excluded groups		X	

If the answer is "Yes" or "Unclear" you **MUST** complete a full EIA

Q4 – Does, or could, the policy, procedure, project or service help to promote equality for members of the equality groups?

Group	Yes	No	Unclear
Age	X		
Disability	X		
Race	X		
Gender	X		
Transgender	X		
Sexual Orientation	X		
Religion or belief	X		
Marriage & Civil Partnership	X		
Pregnancy & Maternity Leave	X		
Relationships between groups	X		
Other socially excluded groups	X		

Q5 – Do you have any feedback data from equality groups that indicate how this policy, procedure, project or service may impact upon these groups?

Group	Yes No Impact	Yes Impact	No	Unclear
Age			X	
Disability			X	
Race			X	
Gender			X	
Transgender			X	
Sexual Orientation			X	
Religion or belief			X	
Marriage & Civil Partnership			X	

Pregnancy & Maternity Leave			X	
Relationships between groups			X	
Other socially excluded groups			X	

Q6 – Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, procedure, project or service?

Yes		No	X
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If you have answered “Yes” now follow the EIA toolkit and complete a full EIA form

Q7 – How have you come to this decision?

No indication that equality groups would be adversely affected by this policy.

Q8 – What is your priority for doing the full EIA

High	Medium	Low
		X

Q9 – Who was involved in the EIA?

HR Employment Advisor, Lead Employer Trust

This EIA has been approved by:

Head of Human Resources, Lead Employer Trust

Date: 18.5.2023

Contact number:

0191 275 4769

Please ensure that this assessment is attached to the policy document to which it relates



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