

EAST HERTS COUNCIL

THE LOCAL JOINT PANEL – 7 AUGUST 2006

REPORT BY SECRETARY TO THE EMPLOYER'S SIDE

6(A) REVISED VERSIONS OF THE FOLLOWING HUMAN RESOURCE
POLICIES & PROCEDURES: EMPLOYING AND RETAINING PEOPLE
WITH DISABILITIES

WARD(S) AFFECTED: NONE

RECOMMENDATION - that the attached procedure “Employing and retaining people with disabilities” be approved.

1.0 Purpose/Summary of Report

1.1 To ensure that the Council complies with its statutory duty towards the disabled.

2.0 Contribution to the Council's Corporate Objectives

2.1 Improve the health and sustainability of the organization.

3.0 Background

3.1 Under the Disability Discrimination Act 2005 public are required positively to promote equality of opportunity for disabled people both within employment and in the exercise of their public functions. This policy addresses the Council's obligation as an employer.

4.0 Report

4.1 This Policy and procedure has been drafted to address issues relating to people who become disabled during employment and disabled people applying for jobs with East Herts.

4.2 It was originally discussed with the Local Disability Service who were auditing our service to existing and potential disabled employers.

- 4.3 The Policy and Procedure show how the Council will deal with its obligations under the Disability Discrimination Act 2005 and gives a framework within which managers should operate.
- 4.4 If the Council did not have such a policy in place and was accused of discrimination under disability legislation it would be found wanting and could incur higher damages at tribunal as a result.
- 4.5 It has been agreed by CMT, the Union, The Council's Disability Advisor and the Valuing Diversity Action Group.

6.0 Legal Implications

- 6.1 This policy complies with the Council's duty as an employer under the Disability Discrimination Act 2005.

7.0 Financial Implications

- 7.1 None.

8.0 Human Resource Implications

- 8.1 There are no implications, other than those set out above. The Policy draws together and sets out current practice in one document.

9.0 Risk Management Implications

- 9.1 Failure to produce such a document will leave the Authority open to challenge and would be damaging to our reputation.
- 9.2 Awards against unlawful discrimination (eg disability discrimination) can be unlimited.

Papers attached

Employing and Retaining People with Disabilities Policy and Procedure

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EAST HERTS COUNCIL

EMPLOYING & RETAINING PEOPLE WITH DISABILITIES

POLICY AND PROCEDURE

July 2006

CONTENTS

	Page
1. Purpose	3
2. Principles of the Policy	4
3. Recruitment Procedure	5
4. Employees who become disabled	6
5. Making Reasonable Adjustments	7

1. Purpose

- 1.1 The purpose of this document is to ensure that East Herts Council complies with its legal obligations under the Disability Discrimination Act 1995 (the Act) by providing a framework for managers in their dealings with people who apply for jobs with the Council or who become disabled whilst working for the Council. The policy, procedure and guidance are designed to ensure that this section of the community are not subjected to unlawful discrimination.
- 1.2 The Act protects disabled job applicants and employees against:
 - a. less favourable treatment because of their disability;
 - b. less favourable treatment for a reason relating to their disability (unless this treatment can be objectively justified);
 - c. victimisation for having raised or supported a complaint of disability discrimination;
 - d. harassment for a reason which relates to their disability.
- 1.3 It also requires the Council to make reasonable adjustments to any provision, criterion or practice applied by the Council or to any physical features of premises occupied by the Council which places the disabled person at a substantial disadvantage with people who are not disabled.
- 1.4 The definition of disability under the Act is broad and covers anyone with a physical or mental impairment; which has a substantial and long term effect on their ability to carry out day-to-day activities.
- 1.5 The Council are aware that only a relatively small proportion of the disabled community is visibly disabled and has, therefore, adopted the following policy principles and procedure to support this group.

2. PRINCIPLES OF THE POLICY

- 2.1 The Council will make all staff aware of the employment-related disability issues.
- 2.2 The Council will seek to ensure applicants and employees with a disability/ies receive full and fair consideration for all types of vacancies, as well as for training, career development and promotion.
- 2.3 The Council is committed to avoiding stereotypical assumptions.
- 2.4 Individuals who apply to the Council for employment will receive fair treatment and be considered solely on their ability to do the job. Therefore the Council will inform job applicants how the selection process will operate and will ask whether they require any adjustments to assist them in the recruitment process. They will also be issued with clear information about the nature of the job and they will be asked whether any adjustment to the premises, equipment or machinery or to working arrangements would assist them to perform the duties of the job. Job applicants will be rejected for a reason relating to disability only where this is justified after consideration of reasonable adjustments.
- 2.5 Wherever practicable, the Council will retain the services of an employee who is or becomes disabled. Where premises, physical equipment and machinery or working methods could put a disabled employee at a disadvantage, the Council will take all reasonable steps to overcome this.
- 2.6 If any member of staff with a disability considers that he or she has been treated in a way that is contrary to these principles, the issue should be raised either through informal means or formally through the Council's grievance procedure. Every effort will be made to secure a satisfactory resolution.

- 2.7 The Council will monitor the composition of its workforce and this policy to ensure it is being properly implemented. Employees and job applicants are requested to co-operate in the monitoring process.
- 2.8 The Council will review policies to ensure they support the Employee Disability Policy: e.g. Recruitment & Selection. Induction, training, promotion.

3 Recruitment Procedure

- All posts will have a job description and person specification detailing the qualification, knowledge, experience, abilities and aptitudes required.
- 3.2 The Council application forms include a separate insert on disability which applicants for any position in the Council will be asked to complete. The form will not be used for selection purposes but the information will be retained at Council for monitoring its recruitment process to ensure fairness.
 - 3.3 Applicants are asked whether they wish to be considered under the Two Tick Disability Symbol Scheme.
 - 3.4 All job applicants will be told clearly how the selection process will operate and be asked whether they would like any adjustments to assist them in the recruitment process.
 - 3.5 Applicants will be issued with clear information about the nature of the job and they will be asked whether any adjustments to the premises, equipment or machinery or to working arrangements will assist them to perform the duties of the job.
 - 3.6 All job applicants will be assessed on their suitability for a post against the criteria detailed on the person specification. They will be rejected for a reason relating to disability only where this is justified after there has been a full consideration of reasonable adjustments, which will include seeking advice from outside agencies (e.g. the Job Centre).

4 Employees who become disabled

4.2 Those employees who become disabled during the course of their employment with the Council will be referred to Occupational Health Service (OHS) to obtain medical advice. This will normally identified through the absence management procedure.

4.3 On receipt of medical advice a meeting will be convened with the individual to discuss the content and the need to make the reasonable adjustments. The individual will be afforded the right to bring a friend or a representative to this meeting.

4.4 The Council will take into account making reasonable adjustments. This will depend on the circumstances of the individual case but could include one or more of the following:-

- ✓ Making adjustments to premises i.e. lowering door handles or widening doorways.
- ✓ Reallocating some of the disabled persons duties to a colleague.
- ✓ Transferring the disabled person to fill an existing vacancy.
- ✓ Changing the person's hours of work or training.
- ✓ Assigning the person to a different place of work or training.
- ✓ Allowing absence during work / training hours for rehabilitation or treatment.
- ✓ Giving or arranging for training or mentoring.
- ✓ Acquiring new or modified equipment.
- ✓ Modifying instructions or reference manuals.
- ✓ Modifying procedures for testing and assessment.
- ✓ Providing a reader or interpreter.

- ✓ Providing supervision or alternative support.
 - ✓ Permitting flexible working.
 - ✓ Participating in supported employment schemes such as Workstep.
- 4.5 Managers should liaise with H R to consider the possibility or viability of making any such adjustments in the event of the OHS recommending that they are necessary. This may include seeking financial assistance from external sources such as Access to Work.
 - 4.6 If the adjustments are not financially or operationally viable then consideration will be given to other alternatives e.g. redeployment, part time working, light duties.
 - 4.7 Where redeployment into another post is identified as a reasonable adjustment, the individual will be given a skills assessment and a timescale within which to identify a suitable vacancy.
 - 4.8 Following the assessment, the employee will be placed on the East Herts Redeployment Register and will have access to all suitable job vacancies as they arise.
 - 4.9 The disabled status of the individual will entitle them to be matched to posts identified by the Redeployment Co-ordinator. Under this arrangement the skills assessment will be used to match the individual to suitable vacant posts.
 - 4.10 If redeployment has not proved successful at the end of the agreed period, the position will be reviewed to determine whether an extension of the time period can be agreed or whether there are any other alternatives.
 - 4.11 If an employee believes that they have been unfairly treated by the Council, they will have recourse to the Grievance Procedure.

5 Making Reasonable Adjustments

It is important to consider each case carefully when the need arises to support employees who have become disabled during their employment with the Council or when taking on a new employee who is disabled. The guidance below is to help Councils adopt a best practice approach to such situations.

5.2 The Test for Making Adjustments

The first consideration is whether there is an obligation to make reasonable adjustments. The Council should assess whether

a provision, criterion or practice applied by or on behalf of the Council or

any physical feature of premises occupied by the Council

places the disabled person at a **substantial disadvantage** when compared with people who are not disabled. A substantial disadvantage being something that is not minor or trivial. If you are in any doubt about this, you should contact the H. R. for advice.

5.3 When to make reasonable adjustments

Having established that the disabled individual is subsequently disadvantaged if adjustments are not made, the Council should consider the following points:-

- ✓ The effectiveness of a proposed adjustment in preventing disadvantage.
- ✓ The practicality of the proposed adjustment.
- ✓ The financial and other costs of the adjustment and the extent of any disruption caused, which will include a consideration of the value of the individuals experienced and expertise to the Council (including a consideration of the resources invested in the individual, their length of service, their level of skills and

knowledge, their level of relationships with other stakeholders of the Council and their level of pay)

- ✓ The extent of the Council's financial and other resources; in this respect more would be expected of a larger Council than a small one.
- ✓ The availability of financial and other assistance from other sources e.g. Access to Work or Remploy.
- ✓ The affect of an adjustment on other employees.
- ✓ Adjustments that have been made for other employees.
- ✓ The extent to which the individual will co-operate with any adjustments.



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EMPLOYING & RETAINING PEOPLE WITH DISABILITIES

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CONTENTS

	Page
1. Purpose	3
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