Belfast Health and Social Care Trust
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Guideline Code: BHSCT/HR/ (01) 2021

Title:	**Disability Equality Regional Policy**		
Policy Author(s)	[redacted] Human Resources Manager, Workforce Equality [redacted]@belfasttrust.hscni.net		
Responsible Director:	[redacted] Human Resources and Organisational Development Director		
Policy Type: (tick as appropriate)	*Directorate Specific ☐	Clinical Trust Wide ☐	Non Clinical Trust Wide ☒
If policy type is confirmed as ***Directorate Specific** please list the name and date of the local Committee/Group that policy was **approved**			

Approval process:	Trust Policy Committee Executive Team Meeting	**Approval date:**	05/08/2021 25/08/2021
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Version No.	3	**Supercedes**	V2 – April 2011 – April 2014
Key Words:	Disability, Equality, Section 75, Discrimination		
Links to other policies	BHSCT Equality, Diversity and Inclusion Policy (2018) TP 03/08 Disability Toolkit		

1.0 INTRODUCTION / SUMMARY OF POLICY

1.1 The Belfast H&SC Trust (the Trust) is committed to promoting disability equality and eliminating unlawful discrimination within employment as outlined within the BHSCT Equality, Diversity and Inclusion Policy (2018) TP 03/08.

1.2 This policy is in line with the legislative framework and in particular the Disability Discrimination Act 1995 (DDA), as amended.
In developing this policy, the Trust has taken account of its duty under Section 49A of the Disability Discrimination Act, which requires the Trust, when carrying out its functions, to have due regard to the need to promote positive attitudes towards people with disabilities and the need to encourage their participation in public life. Further information about how the Trust will comply generally with the Section 49A duty is given in our S.49A Disability Action Plan.

The policy should be read in conjunction with the **Disability Toolkit.**



1.3 The purpose of this policy is to set out the approach of the Trust in its aim to embrace a 'social model of disability' in line with the legislative framework including its duties to promote positive attitudes towards people with disabilities and to encourage their participation in employment.

1.4 To set out what the Trust will do to ensure that staff with disabilities and job applicants do not experience barriers to employment in the Trust.

1.5 To promote a supportive working environment for people with disabilities and for those staff who provide assistance to employees with disabilities.

1.6 To ensure that existing employees who become disabled are retained and supported in their current role, wherever possible, or in alternative suitable employment if available and provide retraining where necessary.

1.7 To develop and extend work placement programmes and volunteering opportunities to make sure that people with disabilities can gain real work experience within the Trust to improve their likelihood of securing future employment.

1.8 Work Experience, Work Based Training Placements and Voluntary Work

1.8.1 In keeping with the Trust's Disability Action Plan, the Trust will work in partnership with a range of internal and external stakeholders to co-develop structured work placement programmes. This will ensure that people with disabilities can gain real work opportunities and experience within the Trust to improve their opportunities of securing future employment.

1.8.2 A work placement is a planned period of work based learning or experience. The Trust recognises that for people with disabilities, work placements can be

a key to access the world of work from which they might otherwise be excluded. Therefore work experience, work placement and vocational training are excellent interventions to provide opportunities for people with disabilities to gain experience and skills in work which may lead to employment. In addition, people with disabilities on work experience/work placement or vocational training are protected against discrimination and harassment under current legislation.

1.8.3 The Trust is committed to involving volunteers and a policy has been developed to promote and provide guidance on the appropriate involvement of volunteers throughout the Trust and to ensure that the interests of recipients, volunteers and staff are adequately protected. The Trust has adopted the following definition of volunteering:
"Volunteering is the commitment of time and energy for the benefit of society and the community and can take many forms. It is undertaken freely and by choice without concern for financial gain"
(Salford City Council Code of Good Practice 2006; revised 2007)

1.8.4 The Trust supports the view that there is a very valuable and purposeful role for volunteers, which is separate and distinct from that of paid workers. It values the involvement of volunteers in its work because they reflect the interests, needs and resources of the community it aims to serve and bring a unique perspective to all its work. The Trust believes that volunteers, through a variety of interesting and satisfying tasks, enhance the quality of care or service provided to patients/clients/residents.

1.8.5 There are many benefits to involving volunteers with disabilities. People with disabilities can bring new ideas and fresh approaches, they can help to keep services relevant and present a more welcoming face to the public.

1.8.6 People with disabilities can experience exclusion from volunteering opportunities because of environmental, attitudinal and organisational barriers rather than as a result of the effects of their disability. However all volunteers bring with them their own skills and talents, while increasing their own personal growth and development. Through appropriate support individuals who wish to volunteer should be supported to do so.

1.8.7 Support offered includes the provision of:

- A tailored volunteer role description with appropriate risk assessment
- Tailored support and supervision and identification of a key worker
- Volunteer expenses
- Volunteer induction and trial period
- Relevant training
- Partnerships with relevant volunteer supporting organisations

1.8.8 The Trust will continue to work with external volunteer supporting organisations to develop and support structured volunteer placements. These organisations include local volunteer centres, MENCAP, Action Mental Health, New Horizons and Cedar Foundation.

2.0 SCOPE OF THE POLICY

2.1 This policy applies to staff with disabilities employed by the Trust. It also applies to managers and people with disabilities who are potential employees and those who undertake roles in the Trust but are not employed by the Trust such as volunteers, contractors, trainees and agency workers.

2.2 The policy applies across the employment relationship and covers areas including:

- recruitment and selection
- terms of employment, including pay
- promotion, transfer and training opportunities
- dismissal or redundancy
- discipline and grievances.

2.3 For the purposes of this policy, a person is deemed to be 'disabled' if their impairment satisfies the definition of 'disability' as laid down in the DDA (as amended- see below)

3.0 ROLES AND RESPONSIBILITIES

3.1 Managers

- Are responsible for actively promoting the employment and retention of people with disabilities.
- Will ensure that all staff at all levels have received disability training appropriate to their role and responsibilities.
- Are responsible for supporting staff with disabilities and for ensuring the timely provision of reasonable adjustments.

3.2 Staff

- All staff should be aware of the impact of their behaviour and attitudes to ensure a working environment in which the dignity of others is respected.
- All staff should complete the 'Making a Difference' Equality, Good Relations and Human Rights eLearning programme (www.hsclearning.com) and read the accompanying Staff Training Manual that aims to increase understanding of current legislation and best practice. Staff are also encouraged to complete the Discovering Diversity Disability Awareness module (http://diversity.hscni.net)
- Employees who have a disability are encouraged to discuss the implications of same with their line manager in the event that any reasonable adjustments or health and safety implications may be required to ensure their full integration and participation in the workplace.

- Employees are encouraged to keep their equality monitoring information up to date through the Employee Self Service Portal of HRPTS this is especially important where there are changes to one's disability status.

4.0 CONSULTATION

The Regional Equality Leads across each of the HSC organisations worked in partnership to co-develop and co-deliver this policy and toolkit. Comprehensive consultation was undertaken with people with disabilities – both existing and future applicants/ employees. Consultation also included those external organisations within the Disability Sector, Educational Sector, statutory agencies e.g. Equality Commission for NI.

5.0 POLICY STATEMENT/IMPLEMENTATION

5.1 Definition of Disability

The DDA provides a legal definition of Disability; this policy applies to persons that fall within this definition. Guidance has also been published under the provisions of the DDA in the Employment Code of Practice and in the OFMDFM publication on Matters to be taken into Account in Determining Questions Relating to the Definition of Disability.

The legislation defines a 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'.

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
- '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.

In addition, people who have certain specified impairments will be deemed to be "disabled" regardless of whether they satisfy the above definition or not.

The specified impairments are cancer, HIV infection, multiple sclerosis and severe disfigurements.



5.2 Types of Disability Discrimination

Disability discrimination may occur in several different ways. These are as follows:

5.2.1 Direct Discrimination

Employers directly discriminate against a person with a disability if, on the grounds of the person's disability, they treat them less favourably than they treat or would treat a person not having that particular disability whose relevant circumstances including his/her abilities are the same as, or not materially different from, those of the person with the disability

For example: An employer seeking a receptionist turns down an applicant with a severe facial disfigurement solely on the grounds that other employees would be uncomfortable working alongside the person with disabilities. This would amount to direct discrimination and would be unlawful.

5.2.2 Disability Related Discrimination

Employers discriminate if a person with a disability is treated less favourably, for reasons related to their disability, than they treat or would treat another person to whom those reasons do not apply, and the employer cannot justify that treatment.

5.2.3 Failure to make Reasonable Adjustments

When a person with a disability is substantially disadvantaged by the employer's provisions, criteria or practices or by the working environment, the employer discriminates if they fail to make any reasonable adjustments which would eliminate or alleviate that disadvantage.
There is no justification for failing to make a reasonable adjustment and the duty applies to all aspects and stages of employment.



5.2.4 Victimisation

This occurs when an employer treats someone less favourably than others because they have asserted their rights under the DDA, or have assisted a person with a disability in asserting their rights.

NB: Victimisation may be claimed by people who do not have a disability as well as by those who have.

5.2.5 Harassment

This occurs where, for a reason related to a person's disability, another person engages in unwanted conduct which has the purpose or effect of violating the person with a disability's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

It covers many types of behaviour including physical, verbal, non-verbal, interfering with another's property, etc.

For example: A man with a learning disability is often called 'stupid' and 'slow' by a colleague at work. This is harassment, whether or not the man with the learning disability was present when these comments were made, because they were said with the intention of humiliating him.

The Trust has in place bullying and harassment policies and procedures which should be read in conjunction with this policy.

5.2.6 Discrimination by Association

This can occur when someone is treated unfavourably on the basis of another person's disability.

For example: A candidate who has been told she is getting a job is suddenly deselected after revealing she has child with severe disabilities with complicated care arrangements. The withdrawal of the job offer could amount to discrimination because of her association with a person with disabilities.

5.3 Using and Sharing Information

Sometimes a reasonable adjustment will not work without the co-operation of other employees and it may be necessary to tell one or more colleagues about a disability an employee has which is not obvious. However, the consent of the individual should always be sought before imparting information about their disability on a need to know basis.

When information about a disability is given in confidence to someone in the Trust e.g. Human Resources, Line Manager, or Occupational Health the Trust is deemed to know and therefore has an obligation to make reasonable adjustments where they are needed. The relevant party must ensure this information is shared and dealt with by the relevant personnel in a confidential manner.

Further, if a manager suspects that a person's behaviour, poor attendance or performance could be disability-related, they are required to inform the relevant personnel (e.g. Disabled Persons Liaison Officer, Human Resources Department or Occupational Health Department) and to take this information into account when following the appropriate Trust procedure bearing in mind the duty to make reasonable adjustments.

The Trust collects and stores equality information, including disability information on its staff. The data is strictly controlled. The information

collected on the equality monitoring form (which can be updated via ESS on HRPTS) is only used for statistical purposes e.g. production of equality screening information. No individuals will be identified in the provision of this information. More information on how the Trust processes personal data of staff members can be found in the Staff Privacy Notice.

5.4 Attracting and Recruiting Applicants with a Disability

The Trust is committed to employing the best person for the job through the application of fair and objective recruitment and selection procedures and appointing solely on the basis of merit.

Generally, the anti-discrimination laws make it unlawful to discriminate against an employee or job applicant on any of the equality grounds. However, there are some exceptions to the basic rule against discrimination. The DDA requires employers to put in place timely reasonable adjustments for persons with a disability. This may mean treating the disabled person differently to the other applicants for example by making amendments to or waiving one or more of the shortlisting criteria for the disabled applicant.

The Trust will also take positive action to promote the participation of persons with a disability in employment in line with the Disability Discrimination Act 1995, Section 75 of the Northern Ireland Act 1998 and the Trust's Disability Action Plan. This will include working in partnership with relevant organisations to actively promote work placement and employment opportunities for people with disabilities.



5.5 Supporting Colleagues with Disabilities

The Trust will make every effort when an employee becomes disabled or when a disability worsens to support them in their current role or to seek alternative suitable employment.

Managers will consider possible reasonable adjustments in consultation with the staff member with disabilities and will seek further advice and guidance as required from the Occupational Health Department, Trust's Disabled Persons Liaison Officer, Human Resources Department and where appropriate from external sources such as the Disability Employment Service.

Reasonable adjustments may include:

- Rearranging working methods.
- Allocating to another employee any minor tasks which the person with a disability can no longer do.
- Providing practical aids or equipment.
- Allowing employee to work at different times or places, for example to fit in with regular medical treatment.

- Allowing time off for rehabilitation, assessment or treatment for example facilitating more regular or longer periods of time out of work to attend necessary medical appointments.
- Alternative suitable employment.

Managers are expected to show discretion and compassion in supporting staff with disabilities with regard to reasonable time off to attend Medical/Dental Appointments.

Human Resource guidance if required is available on a case by case basis.

The Trust recognises that the issue of job retention might also arise when an employee has a stable impairment but the nature of his or her job changes in a way which places him or her at a substantial disadvantage. Any reasonable adjustments required will be implemented.

5.6 Dissemination

All staff

5.7 Resources

All staff should complete the mandatory 'Making a Difference' Equality, Good Relations and Human Rights eLearning programme (www.hsclearning.com) and read the accompanying Staff Training Manual that aims to increase understanding of current legislation and best practice. Staff are also encouraged to complete the Discovering Diversity Disability Awareness module (http://diversity.hscni.net). The Trust provides a range of equality training for staff and managers.

This policy will be communicated to all staff and will be accessible via the Trusts' Intranet/Sharepoint and will be made available, on request, in alternative formats such as large print, Braille, audio cassette, plain language, easy read etc.

A Disability Tool Kit has been developed in support of this policy and to provide further guidance to staff and managers.

5.8 Exceptions

None.

6.0 MONITORING AND REVIEW

Reviews of this policy will be undertaken at regular intervals and not later than three years following implementation.

7.0 EVIDENCE BASE/REFERENCES

Further information can be obtained by contacting:

- BHSCT Human Resources Department
- BHSCT Occupational Health Department
- BHSCT Disabled Persons Liaison Officer
- BHSCT Equality Unit
- Disability Employment Service (https://www.communities-ni.gov.uk/topics/finding-employment/help-find-employment)
- Work schemes and programmes | nidirect (https://www.nidirect.gov.uk/information-and-services/employment-support/work-schemes-and-programmes)
  - Workable (NI) - Tel: 028 9072 6761
  - Access to Work (NI) - Tel: 028 9072 6756

8.0 APPENDICES

Appendix 1 Disability Tool Kit

9.0 NURSING AND MIDWIFERY STUDENTS

Nursing and/or Midwifery students on pre-registration education programmes, approved under relevant 2018/2019 NMC education standards, must be given the opportunity to have experience of and become proficient in the **Disability Equality Regional Policy** where required by the student's programme. This experience must be under the appropriate supervision of a registered nurse, registered midwife or registered health and social care professional who is adequately experienced in this skill and who will be accountable for determining the required level of direct or indirect supervision and responsible for signing/countersigning documentation.

Direct and indirect supervision

- Direct supervision means that the supervising registered nurse, registered midwife or registered health and social care professional is actually present and works alongside the student when they are undertaking a delegated role or activity.
- Indirect supervision occurs when the registered nurse, registered midwife or registered health and social care professional does not directly observe the student undertaking a delegated role or activity. (NIPEC, 2020)

This policy has been developed in accordance with the above statement.

Wording within this section must not be removed.

10.0 EQUALITY IMPACT ASSESSMENT

The Trust has legal responsibilities in terms of equality (Section 75 of the Northern Ireland Act 1998), disability discrimination and human rights to undertake a screening exercise to ascertain if the policy has potential impact and if it must be subject to a full impact assessment. The process is the responsibility of the Policy Author. The template to be complete by the Policy Author and guidance are available on the Trust Intranet or via this **link**.

All policies (apart from those regionally adopted) must complete the template and submit with a copy of the policy to the Equality & Planning Team via the generic email address equalityscreenings@belfasttrust.hscni.net

The outcome of the equality screening for the policy is:

Major impact ☐
Minor impact ☐
No impact ☐

Wording within this section must not be removed

11.0 DATA PROTECTION IMPACT ASSESSMENT

New activities involving collecting and using personal data can result in privacy risks. In line with requirements of the General Data Protection Regulation and the Data Protection Act 2018 the Trust considers the impact on the privacy of individuals and ways to militate against any risks. A screening exercise must be carried out by the Policy Author to ascertain if the policy must be subject to a full assessment. Guidance is available on the Trust Intranet or via this **link**.

If a full impact assessment is required, the Policy Author must carry out the process. They can contact colleagues in the Information Governance Department for advice on Tel: 028 950 46576

Completed Data Protection Impact Assessment forms must be returned to the Equality & Planning Team via the generic email address equalityscreenings@belfasttrust.hscni.net

The outcome of the Data Protection Impact Assessment screening for the policy is:

Not necessary – no personal data involved ☐
A full data protection impact assessment is required ☐
A full data protection impact assessment is not required ☐

Wording within this section must not be removed.

12.0 RURAL NEEDS IMPACT ASSESSMENT

The Trust has a legal responsibility to have due regard to rural needs when developing, adopting, implementing or revising policies, and when designing and delivering public services. A screening exercise should be carried out by the Policy Author to ascertain if the policy must be subject to a full assessment. Guidance is available on the Trust Intranet or via this link.

If a full assessment is required the Policy Author must complete the shortened rural needs assessment template on the Trust Intranet. Each Directorate has a Rural Needs Champion who can provide support/assistance.

Completed Rural Impact Assessment forms must be returned to the Equality & Planning Team via the generic email address equalityscreenings@belfasttrust.hscni.net

Wording within this section must not be removed.

13.0 REASONABLE ADJUSTMENT ASSESSMENT

Under the Disability Discrimination Act 1995 (as amended) (DDA), all staff/ service providers have a duty to make Reasonable Adjustments to any barrier a person with a disability faces when accessing or using goods, facilities and services, in order to remove or reduce such barriers. E.g. physical access, communicating with people who have a disability, producing information such as leaflets or letters in accessible alternative formats. E.g. easy read, braille, or audio or being flexible regarding appointments. This is a non-delegable duty.

The policy has been developed in accordance with the Trust's legal duty to consider the need to make reasonable adjustments under the DDA.

Wording within this section must not be removed.

SIGNATORIES

(Policy – Guidance should be signed off by the author of the policy and the identified responsible director).

[redacted] 04/11/2021

_____ **Date:** _____

[redacted]

Director Human Resources/Organisational Development

[redacted] 04/11/2021

_____ **Date:** _____

[redacted]

Chief Executive

Appendix 1

Disability Tool Kit



