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Employment Principles

1.19 People with disabilities

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- Avoiding discrimination against employees
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Who does this cover?

This policy covers all employees and volunteers of the Brecon Beacons National Park Authority

What is the policy?

The Brecon Beacons National Park Authority is committed to achieving equality of opportunity for all people with disabilities. The Authority will, as a minimum, comply with legislation and wherever possible seek to exceed the minimum standards in keeping with the spirit of the legislation.

- The Authority will ensure that people with disabilities receive full and fair consideration in all areas of recruitment, training and career development.
- Every reasonable effort will be made to make adjustments to put in place the appropriate equipment and support needed by disabled people to perform their role.
- The Authority will make every effort to retain, in suitable employment, employees who develop a disability. This may be through adjustments to the original role, doing similar work, with specialist help, if required, or transferring to an alternative area or through different working arrangements.
- The Authority is committed to ensuring that employees with disabilities receive fair and equitable treatment from their colleagues.
- Alternative forms of communication will be made available on request.

How does the policy work?

What is the policy for?

The policy is aimed at providing an environment in which employees, members and the public with disabilities are welcome and not treated less favourably than others.

What is a disability?

The Disability Discrimination Act 1995 (DDA) defined 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".

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What does this mean in practice?

For the purposes of the Act:

- Substantial means neither minor nor trivial
- Long term means that the effect of the impairment has lasted or is likely to last for at least 12 months (there are special rules covering recurring or fluctuating conditions)
- Normal day to day activities include everyday things like eating, washing and walking.
- A normal day to day activity must affect one of the 'capacities' listed in the Act which include mobility, manual dexterity, speech, hearing, seeing and memory.

A severe disfigurement is also regarded as a disability.

In addition, people with HIV, Cancer & MS will be deemed to be covered by the DDA effect from the point of diagnosis rather than from the point when the condition has some adverse effect on their ability to carry out normal tasks.

Other types of progressive conditions (for example Hodgkinsons disease or motor neurone disease) are covered by the DDA as soon as the condition has some effect on your ability to carry out normal day to day activities. This effect does not need to be continuous or substantial now, but must show that there is likely to be a substantial adverse effect at some point in the future. **It is the effect of a condition that is important, not the condition itself.**

Who are disabled people?

"Disabled people" are those who have a disability as defined above. The Act also covers people who have had a disability in the past.

Someone who is a registered disabled person under the previous legislation is almost certain to be treated as disabled person under the DDA. The definition of disability now covers a wider range of impairments.

Do you have to be registered as disabled to be covered by the legislation?

No. There is no longer a requirement to register a disability.

However, to be protected by the DDA, you must show that you are disabled as defined by the Act. Unless you count as a disabled person under the terms of this law, you cannot make a claim for disability discrimination.

What does disability discrimination mean?

Unlawful discrimination occurs when, for a reason related to their disability, the disabled person is treated less favourably than other people and this treatment cannot be justified. It also occurs when an employer fails to comply with a duty to make a reasonable adjustment in relation to the disabled person, and the failure cannot be justified.

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Line Responsibilities

Line Managers' obligations

Managers at all levels are responsible for ensuring that employees are aware that it is unlawful to discriminate against disabled colleagues, committee members or members of the public, and are familiar with the Authority's policy.

Employee's Responsibility

Employees' obligations

As an employee you must not discriminate against disabled colleagues, members or the public. For example you must cooperate with any reasonable adjustments made for a disabled colleague, such as keeping areas clear of obstructions, operating modified equipment, or providing large-print copies of documents.

Liability of individuals and the Authority for employees' actions.

As an employee you are individually responsible for complying with the law in respect of colleagues, members and the public. However, if a colleague breaks the law in the course of their employment, the Authority may also be liable whether or not the employee acted with its knowledge or approval.

Avoiding discrimination against employees as an Authority

How are employment practices affected?

All areas of employment are affected, for example

- Recruitment and selection
- Opportunities for promotion, transfer or training
- Work related benefits
- Dismissal or redundancy

Discrimination in any of these areas is unlawful. It is unlawful for the Authority or for you as an employee to discriminate against current or prospective employees with disabilities.

Making Reasonable adjustments

The DDA requires the Authority to make any **reasonable adjustments** that is necessary to prevent or remove any physical feature of its premises or any arrangements made on its behalf, which cause a substantial disadvantage to a disabled employee. In employment, reasonable adjustments are changes made to your working policies and practices and to the physical features of your premises, where these are substantially disadvantaging disabled people.

What is a reasonable adjustment?

The legislation gives a list of examples of reasonable adjustments, although this list is not exhaustive and can be amended by future legislation. More than one of these steps, or other adjustments will sometimes be necessary. The Authority will consider these, and any other reasonable actions, to remove or prevent disadvantage. The specified examples are:

- Making adjustments to premises
- Transferring the person to fill an existing vacancy

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- Altering the person's working hours
- Assigning the person to a different place of work
- Allowing absences during working hours for rehabilitation, assessment or treatment
- Giving or arranging training for the person
- Acquiring or modifying equipment
- Modifying instructions or reference manuals
- Modifying procedures for testing or assessment
- Providing a reader or interpreter
- Providing supervision

The above list is not definitive and it is important not to make assumptions about what someone needs in the way of reasonable adjustments. Always ask the person, rather than trying to guess what reasonable adjustment would be most appropriate.

When does an employer make Reasonable Adjustments

The Authority has a duty to make reasonable adjustments as soon as we know that someone defined as disabled in the terms of the Disability Discrimination Act may need them. Not asking whether something is needed is no defence for not knowing, and it is our duty to find out whether adjustments are needed.

Managing and recording reasonable adjustments

Reasonable adjustments must be managed and recorded. If you do not do this you will be putting yourself at risk of charges of charges of discrimination because you will not be able to show.

- What steps you have taken in response to requests or
- Why adjustments aren't reasonable in terms of the Act

Learning & Development

The Authority will ensure that learning and development is made available to disabled and non-disabled employees on the same basis. Reasonable adjustments will be made, where necessary, to all parts of the training provision: for example:

- Materials – pre-course work and handouts in alternative formats for visually impaired staff
- Delivery – supported by sign language interpreters, where necessary, for delegates with hearing impairments
- Meals – flexibility within timescales to accommodate participants with diabetes and provision of appropriate meals.

Career development

The Authority encourages all employees, with or without disabilities, to develop themselves and their careers. Development and promotion opportunities are equally open to all employees.

Reviewing needs

How and when individual needs are reviewed will vary. Line managers should satisfy themselves at least annually that any disability related requirements for individuals continue to be met. This can be completed during the Performance Management review (PMR) process.

Reviews should also take place if the individual's circumstances

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change, if the individual's impairment / condition alter, or if the individual requests a review.

Recruitment

It is unlawful for an employer to discriminate against a disabled person at any point during the recruitment or selection process. It is therefore unlawful to say or do anything which might unreasonably deter a disabled person from applying for a particular job.

The Authority will not discriminate against any disabled person when recruiting, and will consider all appropriate reasonable adjustments throughout the process and on appointment. This includes:

- The job specification
- Application forms
- The selection process (including interview timing and location)
- The assessment process
- The terms of employment offered.

Discrimination in any of these areas is unlawful.

The Guaranteed interview scheme

The Guaranteed Interview Scheme applies to both internal and external recruitment.

The Authority will offer an interview to all disabled applicants if they meet the essential criteria for a particular vacancy. Reasonable adjustments will, if necessary be made to all relevant selection procedures. Thereafter any appointment will be made on merit.

Further Information for employees

Awareness of a disability

If the Authority is not made aware of an individual's disability it is under no obligation to make reasonable adjustments.

However, the duty to make reasonable adjustments increases with the likelihood that the Authority could deduce that a disability exists i.e. if an individual had an increasing amount of sickness absences, or began to behave out of character, then the authority would be expected to explore possible reasons why, including disability.

It is also sufficient for a relevant person, such as HR, Line Managers, Heads of Department to know of a disability even if the information has been given in confidence. Therefore a line manager may sometimes have to make adjustments following recommendations arising from a Risk Assessment without knowing the nature of the disability.

If it is unclear whether a disability exists or not, line managers should treat the circumstances as though a disability does exist to prevent legal vulnerability for the Authority.

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Who should you tell if you are, or become disabled?

You do not have to tell anyone at work about a disability, if you do not want to. However, it is advisable to notify your line manager as they are responsible for making reasonable adjustments to your work arrangements if necessary.

If you become disabled, or your impairment / condition changes, the Authority will make every effort to keep you in your current job or to help you find a suitable alternative. If these efforts are unsuccessful you may have to leave the Authority.

You should bear in mind health and safety issues when notifying your line manager about a disability. For example if you have diabetes, even if it is controlled and ordinarily has no impact on work, it is advisable that at least one other person (preferably the nominated First Aiders) you work with is aware of your condition in case of emergencies.

What support and assistance is available for disabled employees?

Some disabled employees will need support to assist them to carry out their roles effectively. Where appropriate the Authority's principles and policies will be flexible enough to accommodate the inclusion of support workers to enable them to effectively carry out their support function. For example:

- A disabled person is entitled to an essential user car and has a support worker who drives for them. The support worker will be permitted to drive the car to assist the individual in their work related travel (covered by the Authority's insurance)
- A visually impaired employee has a support worker to read printed documentation for them which is sometimes confidential to the Authority. The support worker will be permitted to view the information in order to relay the information to the employee.

Working out if disability discrimination has happened to you.

As individual you need to

- Identify whether a disability –related reason is a factor in the treatment you are receiving

And

- Identify in what way the treatment that you are receiving is less favourable, compared to others whom the disability-related reason does not apply.
- Consider whether the employer has failed to make a reasonable adjustment and if so, whether, had an adjustment been made a difference to the explanation that the employer used to justify the less favourable treatment.

If you have a complaint or cannot resolve a problem by informal discussion you may use the Grievance Policy or the Harassment Policy, as appropriate.



Section 1.2 Grievance



Section 1.7 *Harassment / bullying policy*

Where can I get further advice?

Disability organisations

Many disability organisations (for example, Royal National Institute for the Deaf) provide leaflets and website information about disabled people's rights at work. Some organisations produce fact-sheets aimed at improving employers' understanding of a disability and its possible effects and explaining how easily and cheaply reasonable adjustments can be made. You can show this information to your employer.

The [Disability Law Service](#) (telephone 020 7791 9800) and [DIAL UK](#) (Disability Information and Advice line tel 01302 310123) give advice on workplace rights.

Access to Work

Access to Work (ATW) is part of Jobcentre Plus, which is run by the government's Department of Work and Pensions.

Research shows that disabled people are less likely to be in paid work than people who are not disabled. Access to Work helps to tackle this inequality by:

- providing practical support and advice to disabled people and employers giving
- employers money towards the cost of making reasonable adjustments for disabled people in the workplace

Access to Work can pay the whole cost of reasonable adjustments for new employees and up to 80 per cent for existing employees.

Disability Rights Commission Helpline

The [DRC Helpline](#) gives advice and information about the Disability Discrimination Act.