

## DISABILITY POLICY

### POLICY

The George Eliot Hospital Trust is an equal opportunities employer and is committed to ensuring that there is no discrimination against disabled people either in access to services, employment or in employment practices.

The Trust supports the Employment Services Disability Symbol and will ensure that the following five commitments will be met.

- To interview all disabled job applicants who meet the minimum criteria for a job vacancy, and consider them on their abilities.
- To ask disabled employees, at least once a year, what can be done to make sure they can develop and use their abilities at work.
- To make every effort to keep staff in their jobs should they become disabled.
- To ensure that key employees develop the awareness needed to make the commitments work.
- To review these commitments annually, to plan improvement and to tell all employees about achievement and future plans.

The Trust will embrace the General Duties to actively promote disability equality under the terms of the new Disability Discrimination Act 2006.

### 1 Disability Equality Duty

The general duty includes a requirement to:

- promote equality of opportunity between disabled people and other people.
- eliminate discrimination that is unlawful under the DDA. This can be either direct discrimination which relates to less favourable treatment of a disabled person due to their disability, or failure to make reasonable adjustments.
- eliminate harassment of disabled people that is related to their disability. This has been included to protect not only disabled people who have complained about unfair treatment, but also others who might speak out to support disabled colleagues who they feel are being treated unfairly.

- promote positive attitudes towards disabled people.
- encourage participation by disabled people in public life.
- take steps to meet disabled people's needs, even if this requires more favourable treatment.

## **2 The Legal Position**

2.2 Under the Disability Discrimination Act (DDA) 'a disabled person is someone with a physical or mental impairment which has a substantial and long term adverse affect on their ability to carry out day-to-day activities'. Disabled people have rights under the act, as do people who have had disabilities but have fully or largely recovered.

## **3 Definition of Discrimination**

3.1 The act makes it unlawful for an employer to discriminate against a disabled person in the field of employment. The act says that discrimination occurs in two ways:

- Firstly, when for a reason which relates to a person's disability, the employer treats that person less favourably than the employer treats, or would treat a non-disabled person and the employer cannot show that the treatment was justified.
- Secondly, when an employer fails to comply with a reasonable adjustment in relation to the disabled person and they cannot show that this failure is justified.

## **4 Examples of adjustments**

4.1 The act gives a number of examples of "ADJUSTMENTS" which may have to be taken, if it is reasonable to do so:

- Make adjustments to premises.
- Transferring the person to fill an existing vacancy.
- Altering the person's working hours.
- Assigning the person to a different place of work.
- Allowing the person to be absent during working hours for rehabilitation, assessment or treatment.
- Giving the person, or arranging for them to be given training.
- Acquiring or modifying equipment.
- Modifying instructions or reference manuals.
- Modifying procedures for testing or assessment.
- Providing a reader or interpreter.
- Providing supervision.

4.2 The effective and practicable adjustments for disabled people often involve little or no cost or disruption to the employer and are therefore likely to be

reasonable. There are a number of factors, however, which may have a bearing on whether it will be reasonable to make the adjustment.

**Factors include:**

- the effectiveness of the steps in preventing the disadvantage
- the practicability of the step.
- the financial and other costs of the adjustment, and the extent of any disruption caused.
- the extent of the employer's finances or other resources.
- the availability of finance or other assistance to make the adjustment.

## **5 Recruitment and Selection of Disabled people**

5.1 The DDA says that it is unlawful for an employer to discriminate against a disabled person;

- In the arrangements made for determining who should be offered the employment.
- In the terms in which they are offered employment.
- By refusing to offer, or deliberately not offering the disabled person employment.

5.2 The Trust recruitment and selection policy and procedure includes provision for ensuring that discriminatory practices are avoided and that the requirements of the two tick symbol are met. It is a requirement of Trust employees to comply with the policy and procedure when recruiting staff.

## **6 Induction**

6.1 Discrimination must not occur in the organisation's induction process. Adjustments may have to be made to ensure that the employee is introduced into their new working environment in a clearly structured and supported way, through the corporate and local induction process with, if necessary, an individually tailored programme.

## **7 Retention of disabled staff**

7.1 The DDA covers not only employees who were disabled when recruited, but also those who become disabled or whose disability worsens to an extent that it has an impact on their work. If as a result of the physical arrangements of the workplace, or the arrangements put in place by the manager (such as fixed hours), the disabled employee is disadvantaged, then it must be considered whether a reasonable adjustment could be made and if that adjustment would resolve the difficulty. If there are significant changes in the ability of an employee during the course of their employment

the manager must refer the individual to the department of occupational health and safety for assessment. Staff will be asked as part of the trust appraisal process if any significant changes in their ability have occurred which need to be considered in relation to this policy.

- 7.2 The process to be followed in the event of an existing member of staff becoming disabled during their employment is outlined in Appendix 1.

## **8 Redeployment**

- 8.1 Where reasonable adjustments cannot be made to the existing post, other appropriate work may be offered provided it is considered suitable by the individual and subject to approval from the Occupational Health Department. In such circumstances the new post will be offered on its existing salary and conditions (subject to reasonable adjustment, if necessary) ie Protection of Pay will not apply.

## **9 Promotion and Transfer**

- 9.1 To ensure that discrimination does not occur, there are two areas to consider.
- 9.1.1 Ensuring that practical arrangements are in place, with regards to appraisal and selection, to enable promotion or transfer of disabled staff. For example location, additional equipment etc.
- 9.1.2 Reviewing arrangements to check that qualifications required are justified for the job.

## **10 Training**

- 10.1 Again discrimination must not take place in the selection for training and reasonable adjustments may need to be made in the provision of training, covering the format of the training and the physical location.

## **11 Facilities**

- 11.1 The Trust is committed to improving facilities for disabled employees and, in the course of any new building or alterations, will examine the desirability and practicality of improvements to parking, access/egress to and from buildings, toilet facilities etc.

## **12 Risk Assessment**

- 12.1 Like all employers the Trust has a duty of care to all employees as individuals. However, all individuals have responsibility to take reasonable care not to endanger themselves or others and should therefore inform their manager if their ability to work safely is compromised. All reasonable precautions should be taken to protect employees and special measures may need to be taken to protect a disabled employee. This must form an integral part of the departmental manager's risk assessment. The Trust's advisors can be consulted over specific issues e.g. the health and safety officer or the fire prevention officer.

## **13 Termination of employment**

- 13.1 Dismissal of a disabled person for a reason relating to the disability needs to be justified and the reason has to be one that could not be overcome by reasonable adjustment. It would only be justifiable to terminate the employment of an employee whose disability makes it impossible for them to perform the main functions of their job, if an adjustment such as redeployment was not reasonable. In all such cases the Trust would consult the Occupational Health Department.

- 14 This policy has been agreed with Staff-Side Representatives of the Trust Joint Policy Committee and approved at the Trust Board meeting held on Tuesday 27th May 2003, to be adopted with effect from 1st June 2003.

- 15 This agreed policy cancels all other agreements on this subject relating to employees, written or implied between the Trust and staff representatives. This policy and procedure will be reviewed by 1st June 2006.

### **ASSOCIATED POLICIES**

- Equal Opportunities
- Recruitment & Selection
- Grievance
- Sickness Absence Management
- Bullying & Harassment
- Disability Equality Scheme

## **16 Agreement**

- 16.1 This policy has been agreed with Staff-Side Representatives of the Trust's Joint Policy Committee, the Human Resource Sub Committee and adopted at the Trust Board meeting held on 14<sup>th</sup> December 2006.
- 16.2 This agreed policy cancels all other agreements on this subject relating to employees, written or implied between the Trust and Staff Representatives/Trade Unions. This policy will be reviewed no later than 24 months of this agreement.