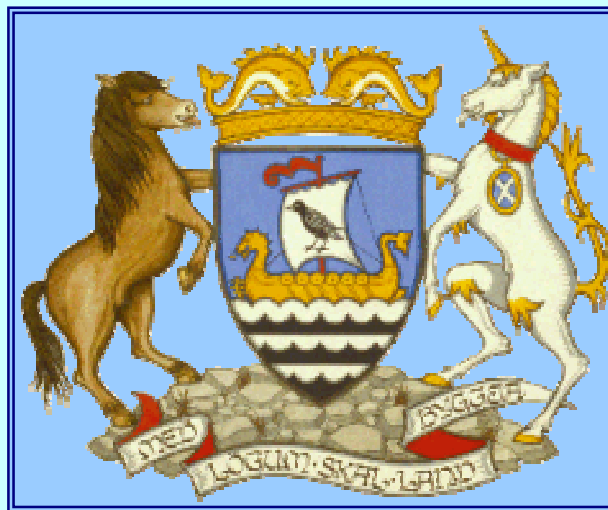


SHETLAND ISLANDS COUNCIL

**MANAGERS GUIDE TO
THE EMPLOYMENT OF
DISABLED PEOPLE**



**Operational Date: March 2004
Applies to: All Staff**

Shetland Islands Council

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1 INTRODUCTION

- 1.1 Shetland Islands Council is recognised within the community as an employer who provides opportunities for employment and advancement to people with disabilities.
- 1.2 The Council seeks to employ the most suitable applicant for each vacancy that arises, regardless of any physical or mental impairment. Applicants with disabilities will be treated fairly and considered on ability only.

2 RELEVANT LEGISLATION

- 2.1 The Disability Discrimination Act 1995 (DDA) makes it unlawful for employers to discriminate against disabled people for a reason relating to their disability, which also includes prospective employees. It also places a duty on employers to make *reasonable adjustments* to help them overcome any 'substantial disadvantage' in comparison with a non-disabled person, whether because of the physical nature of the workplace or working arrangements.
- 2.2 A reasonable adjustment is any step, or steps, an employer can reasonably take to prevent arrangements made by him, or physical features of premises occupied by him, from putting a disabled person at a disadvantage in comparison with a non-disabled person.
- 2.3 By October 2004, all service providers will be required to take reasonable steps to remove or alter physical features of premises, which make it impossible, or unreasonably difficult for disabled people to use a service or, to provide a reasonable means of avoiding the feature in question.

3 SCOPE OF THE POLICY

- 3.1 This policy applies to all existing and prospective employees of Shetland Islands Council.

4 DEFINING DISABILITY

- 4.1 The Disability Discrimination Act defines a disabled person as someone with a "physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day to day activities."
- 4.2 People often think of disability as covering situations such as using a wheelchair, being blind or visually impaired, or deaf: they will often know about other disabilities which can include epilepsy or diabetes. However disability can also cover a much wider range of conditions, for example, facial disfigurement, dyslexia, learning difficulties, heart disease, depression and mental illness.

Further information is available in Appendix 1

5 RECRUITMENT & SELECTION

- 5.1 Shetland Islands Council will ensure that the methods they use to attract potential candidates will not discriminate against disabled people. All selection panel members will be trained in equal opportunities, diversity issues and disability awareness.
- 5.2 The Council will give due consideration to the matters listed below, and will be mindful of their obligation not to discriminate against a prospective candidate:
- Job Description/Profile
 - Person Specification
 - Advertising the Job
 - Selection Process
 - Location & Timing of Interviews
 - Assessment Techniques
 - Interviewing
 - Selection Criteria

6 TERMS & CONDITIONS OF EMPLOYMENT

- 6.1 Shetland Islands Council will not offer a disabled applicant terms & conditions of employment different or less favourable than those offered to a non-disabled applicant, for a reason relating to the applicant's disability.
- 6.2 Terms and conditions of employment will be reviewed where necessary, to consider if reasonable adjustments need to be made to them where they appear to discriminate against a disabled person.
- 6.3 A disabled person may be offered a less favourable contract if there is no reasonable adjustment which can be made to remove that reason.

7 INDUCTION

- 7.1 The Council will ensure that a disabled person is introduced into their new working environment in a clearly structured and supported way with, if necessary, an individually tailored induction programme.
- 7.2 Any accommodation arrangements required by newly recruited disabled staff (workstation, toilets, emergency and evacuation procedures etc) will be met in advance of the employee's starting date, wherever possible.
- 7.3 A buddy/mentor will be assigned to help the individual settle in and to provide contact for basic day-to-day queries.

8 PROMOTION, TRAINING & DEVELOPMENT

- 8.1 Shetland Islands Council will not discriminate in assessing a disabled employee's suitability for a promoted post, training or development. Particular attention will be paid to the practical arrangements necessary to enable the promotion, training or development to take place.
- 8.2 Review of performance, or selection criteria, as well as the new job itself will have reasonable adjustments made to them, where necessary.
- 8.3 Whenever an opportunity for promotion, training or development arises, it is incumbent upon the relevant line manager to review the qualifications, length of experience and all other relevant criteria. This is to ensure that disabled employees who may be unable to meet the criteria because of their disability, but would be capable of doing the job well, are not excluded.

9 EMPLOYEES WHO BECOME DISABLED

- 9.1 The Council will endeavour, whenever possible, to retain the services of any employee who becomes disabled during the course of their employment. There are several business reasons for retaining employees who become disabled – they have the skills for the job and knowledge of the Council's Services and methods of working. Often the costs of adjustments in money and time can be far less than those of recruiting a new employee.
- 9.2 If as a result of disability, an employee finds himself at a disadvantage in doing his existing job for example, as a result of the layout of the Council's premises, the Council will consider any reasonable adjustments which could be made to resolve this difficulty.
- 9.3 It may be that the job itself requires to be modified to accommodate an employee's changed needs - providing practical aids and adaptations, allowing the employee to work at different times or places from those with equivalent jobs, for example.
- 9.4 Regardless of the circumstances, a newly disabled employee is likely to need time to readjust. The Council will, in liaison with its Occupational Health Adviser, consider a number of options, including:
 - a trial period, to assess whether the employee is able to cope with the current job demands;
 - for the employee to work from home;
 - phased return to work;
 - additional training;
 - time off for rehabilitation, assessment or treatment;
 - acquiring special equipment or modifying that existing.

- 9.5 It may be a reasonable adjustment for the Council to transfer a newly disabled employee to a different post within the organisation, either temporarily, or permanently. Such a change would only be effected following consultation with the employee, their line manager, Personnel and the Occupational Health Adviser. Again, additional support, training or coaching, will be provided if required.
- 9.6 Where no reasonable adjustment would overcome a particular disability so as to enable the disabled employee to continue with similar terms & conditions, it may be that the Council could offer alternative employment, but into a lower graded post. Again, such a change would not be effected without duly consulting both the employee concerned and the Occupational Health Adviser with regard to the suitability of the post.

10 DISMISSAL AND DETRIMENTAL TREATMENT

10.1 Redundancy

In general, the same arrangements, duties and requirements for redundancy will apply to both disabled and non-disabled employees. Were a redundancy situation to arise within the Council, then the Council's own policy on Redeployment and Redundancy would apply.

10.2 Disciplinary Action

Similarly, any disciplinary action deemed necessary in the case of a disabled employee, will be handled strictly in accordance with the Council's Disciplinary Policy.

Any necessary adjustments in relation to arrangements for holding disciplinary interviews will be made in the same way as they would be for other things.

10.3 Dismissal

Dismissal, including early or ill health retirement, of a disabled person for a reason relating to the disability will need to be justified and the reason for it will have to be one which could not be removed by any reasonable adjustment.

Dismissal on the grounds of capability will only be made after careful exploration of all the possibilities of whether reasonable adjustments could be made – any necessary expert advice would be sought.

10.4 Disputes

A disabled person who feels that they have been unlawfully treated can complain to an employment tribunal. This must generally be done within three months of that treatment occurring.

It may help in resolving complaints, without legal proceedings, for the individual to know the Council's reasons for the treatment. A formal questionnaire is available from Jobcentre plus, by which an individual can ask about these, and other relevant matters. If the complaint comes before an employment tribunal, it will be able to take account of any reply by the employer, or, of the failure to reply.

However, it would be hoped that any dispute could be settled before going to a tribunal; the Council would look to try to settle any dispute through its internal Grievance Procedure, in the first instance.

The Council also employs a number of trained mediators amongst its staff, which may be a useful means of helping both parties reach a mutually acceptable solution. ACAS also offers the services of a conciliation officer to try to settle disputes without recourse to a tribunal.

11 MONITORING

11.1 By way of its commitment to employing people with disabilities, the Council will undertake to:

- Keep track of applications from disabled people, and the results, to allow Personnel to measure whether our Recruitment & Selection Policy and practices are successful and if not, improve them;
- Ensure that training programmes in disability awareness for managers and other staff, are accessible and kept up to date;
- Monitor the promotion of disabled employees;
- Evaluate the adjustments and investments they have made;
- Plan ahead – in premises redesign or refurbishment, or new technology installation, with the needs of present, or prospective employees, and customers, in mind;
- Actively maintain the 'Positive About Disabled People' symbol.

DISABILITY DISCRIMINATION ACT (DDA)1995

GLOSSARY OF TERMS

The thinking behind the Disability Discrimination Act (DDA) is that it should protect people who would generally be regarded as disabled. This is why the Act defines 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**.

Physical Impairment: this includes, for instance, a weakening of part of the body (eyes, ears, limbs, internal organs etc.) caused through illness, by accident or congenitally. Examples would be blindness, deafness, paralysis of a leg and heart disease.

Mental Impairment: the term 'mental impairment' is intended to cover a wide range of impairments relating to mental functioning, including what are often known as learning disabilities. However, the Act states that it does not include any impairment resulting from or consisting of a mental illness, unless that illness is a clinically well-recognised illness; that means, one that is recognised by a respected body of medical opinion.

Substantial: put simply, this means the effect of the physical or mental impairment on ability to carry out normal day-to-day activities, is more than minor or trivial. It does not have to be a severe effect.

Long-term adverse effect the effect has to have lasted, or be likely to last, overall, for at least 12 months and the effect must be a detrimental one. A person with a life expectancy of less than 12 months is, of course, covered if the effect is likely to last for the whole of that time.

A normal day-to-day activity: these are activities which are carried out by most people in a fairly regular and frequent basis. The term is not intended to include activities which are normal only for a particular person or group of people, such as playing a musical instrument, or a sport, to a professional standard or performing a skilled or specialised task at work.

FREQUENTLY ASKED QUESTIONS

WHAT SORT OF EFFECT MUST THERE BE?

The person must be affected in at least one of the following respects, as listed in the Act:

- Mobility;
- Manual dexterity;
- Physical co-ordination;
- Continence;
- Ability to lift, carry or otherwise move everyday objects;
- Speech, hearing or eyesight;
- Memory or ability to concentrate, learn or understand; or
- Perception of the risk of physical danger.

WHAT HAPPENS IF THE EFFECTS ARE REDUCED BY MEDICATION OR SOME OTHER FORM OF TREATMENT?

Broadly speaking, the effects that matter are those that would be present if there was no medication or treatment taking place. The exception is people who wear spectacles or contact lenses when what matters is the effects that remain while the spectacles or contact lenses are being used.

ARE THERE ANY TYPES OF CONDITION COVERED BY SPECIAL PROVISIONS IN THE ACT?

Yes, because some people with particular conditions might otherwise not be counted as disabled. These are provisions covering:

- Recurring or fluctuating conditions such as arthritis, where the effects can sometimes be less than substantial, which are treated as continuing to have a substantial adverse effect so long as that effect is likely to recur;
- Conditions which progressively deteriorate, such as multiple sclerosis, cancer, HIV infection and muscular dystrophy, which count as having a substantial adverse effect from the first time that they have any effect at all, on ability to carry out normal day to day activities, even if it is not substantial, so long as it is eventually likely to cause a substantial adverse effect; and
- Severe disfigurements, which are treated as having substantial adverse effects on ability to carry out normal day to day activities, even if they have no actual effect at all.

ARE ANY CONDITIONS NOT COVERED?

Yes, the following conditions specifically do not count as impairments:

- Addiction to or dependency on alcohol, nicotine or any other substance (unless resulting from the substance having been medically prescribed);
- Seasonal allergic rhinitis (e.g. hayfever) unless it aggravates the effect of another condition;
- Tendency to set fires, or steal, or physically or sexually abuse other persons;
- Exhibitionism and voyeurism.

Severe disfigurements consisting of tattoos, non-medical body piercing or attachments to such piercing, are not treated as having substantial adverse effects.

ARE PEOPLE WITH GENETIC CONDITIONS COVERED?

If a genetic condition has no effect on the ability to carry out normal day-to-day activities, the person is not covered. Diagnosis does not in itself bring someone within the definition. If the condition is progressive, then the rule about progressive conditions applies.

WHAT IF SOMEONE HAS RECOVERED FROM A DISABILITY?

People who have had a disability within the definition are protected from discrimination, even if they have since recovered. There is no time limit for this.

USEFUL CONTACT DETAILS

DISABILITY RIGHTS COMMISSION – an independent body established by an Act of Parliament to eliminate discrimination against disabled people and promote equality of opportunity.

Telephone: 08457 622 633
 Textphone: 08457 622 644
 e-mail: enquiry@drc-gb.org
 Website: www.drc-gb.org
 Post: DRC Helpline
 FREEPOST
 MID 02164
 Stratford Upon Avon
 CV37 9BR

CAPABILITY SCOTLAND - Scotland's largest disability organisation, providing a broad range of services to adults and children with disabilities.

Telephone: 0131 313 5510
 Textphone: 0131 346 2529
 Fax: 0131 346 1681
 e-mail: ascs@capability-scotland.org.uk
 Website: capability-scotland.org.uk

DISABILITY SHETLAND

Telephone: 01595 692196
 e-mail: info@disability-shetland.com
 Post: Toll Clock Shopping Centre
 26 North Road
 Lerwick
 Shetland

JOBCENTREPLUS

Telephone: 01595 732065
 Fax: 01595 732066
 Website: jobcentreplus.gov.uk
 Post: Charlotte House
 Commercial Road
 Lerwick
 Shetland

INFORMATION ABOUT PARTICULAR DISABILITIES:

BLINDNESS OR PARTIAL SIGHT:

Royal National Institute for the Blind (RNIB)

Telephone: 0845 766 99 99

Website: www.rnib.org.uk

RNIB Scotland: Dunedin House, 25 Ravelston Terrace, Edinburgh. EH4 3TP

Telephone: 0131 311 8500

DEAFNESS AND PARTIAL HEARING:

Royal National Institute for the Deaf (RNID)

Telephone: 0141 554 0053

Website: www.rnid.org.uk

RNID – Aberdeen Office: RNID Scotland (Aberdeen), 2nd Floor, 15 Union Street, Aberdeen. AB11 5BU

Telephone: 01224 584781

CEREBRAL PALSY:

SCOPE

Telephone: 0808 800 3333

Website: www.scope.org.uk

Post: 6 Market Road, London. N7 9PW

ROYAL SOCIETY FOR DISABILITY AND REHABILITATION:

RADAR

Telephone: 020 7250 3222

Website: www.radar.org.uk

Post: 12 City Forum, 250 City Road, London. EC1V 8AF

MENTAL ILLNESS:

MENCAP

Website: www.mencap.org.uk

ENABLE in Scotland

Telephone: 0141 226 4541

Website: www.enable.org.uk

Post: 6th Floor, 7 Buchanan Street, Glasgow. G1 3HL

**DYSLEXIA:
British Dyslexia Association**

Telephone: 0188 966 8271
Website: www.bda-dyslexia.org.uk
Post: 98 London Road, Reading. RG1 5AU

**CHEST, HEART AND STROKE CONDITIONS:
Stroke Association**

Telephone: 0845 30 33 100
Website: www.stroke.org.uk
Post: Stroke House, 240 City Road, London. EC1V 2 PR

**CYSTIC FIBROSIS:
Cystic Fibrosis Trust**

Telephone: 0845 859 1000
Website: www.cftrust.org.uk
Post: 11 London Road, Bromley, Kent. BR1 1BY

**DIABETES:
Diabetes UK (Scotland)**

Telephone: 0141 332 2700
Website: www.diabetes.org.uk
Post: Savoy House, 140 Sauchiehall Street, Glasgow. G2 3DH

**MULTIPLE SCLEROSIS:
Multiple Sclerosis Society of Great Britain and Northern Ireland**

Telephone: 0808 800 8000
Website: www.mssociety.org.uk
Post: MS National Centre, 372 Edgware Road, London. NW2 6ND

Aberdeen Branch: Stuart Resource Centre, Longwalk Road, Mastrick, Aberdeen.
AB16 5QQ

**ARTHRITIS:
Arthritis Care**

Telephone: 020 7380 6500
Website: www.arthritiscare.org.uk
Post: 18 Stephenson Way, London. NW1 2HD

GOVERNMENT SCHEMES AND SUPPORT

There are a number of schemes and considerable support available to assist an employer to both employ a disabled person and, to retain the services of an employee who becomes disabled during the course of their employment.

Information regarding the various options is given below; however, these schemes are co-ordinated by Jobcentre Plus and contact should therefore be made with the appropriate representative there, in the first instance.

1 JOB INTRODUCTION SCHEME

This Scheme provides a weekly grant towards the costs of employing a disabled person for a trial period, usually 6 weeks although it can be extended to 13 weeks. The job can be full, or part time but it must be expected to last for at least six months after the trial period ends and must be a genuine job.

2 ACCESS TO WORK

This Scheme provides practical support to disabled people entering paid employment, to help overcome work related obstacles caused by disability.

If a person has been unemployed, with a job to go to, or has just taken up work with the Council, Access to Work will meet all approved costs of help.

If a person has been in employment for 6 weeks or more when an application is first made, Access to Work will meet up to 80% of the approved costs of help, after the first £300.00.

Access to Work can help pay for:

- a communicator, for those who are deaf or have a hearing impairment;
- a reader at work, for those who are blind or have a visual impairment;
- special equipment (or alterations to existing equipment) to suit particular work needs, if required because of a disability;
- alterations to premises or working environment, if required because of a disability;
- a support worker for a person requiring help either at work, or getting to work;
- help towards the cost of getting to work if a person is unable to use public transport because of a disability.

Jobcentre Plus will approve help for as long as it is required, up to a maximum of 3 years. After that, any assistance given will be reviewed under the rules of the programme operating at that time.

3 WORKSTEP

WORKSTEP is designed to help those who face significant barriers to working. Other forms of support, such as adjustments by the employer, or help from Access to Work, have been considered and will not help the person concerned work effectively without further support.

The Scheme also covers employees who are currently in work but at serious risk of losing their job as a result of disability, even after the employer has made all reasonable adjustments and considered all alternative options. An individual tailored support package will be developed for any such individual.

WORKSTEP replaces what was formerly known as the Supported Employment Programme and anybody previously in that programme will convert to WORKSTEP.

4 NEW DEAL FOR DISABLED PEOPLE

This is being piloted in some areas to help people in receipt of Incapacity Benefits, either through a disability or long-term illness, to get into work. Support is given by means of providing special aids, equipment or some other form of assistance, and training if required. Advice is also available to employers on how to adapt the workplace to enable recruitment or retention of a person with disability.

This service is provided locally by:

Moving On Employment Project
Eric Gray Resource Centre
Kantersted Road
Lerwick
01595 693373