Booklet 5

How to meet the employment duties

Responding to the duty to promote disability equality in the post-school sector

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Further information
For further information about the Learning and Skills Council visit www.LSC.gov.uk

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Acknowledgements

Introduction

This document is part of a suite of materials designed to assist post-16 education providers to respond positively to the duty to promote disability equality. These materials are derived from a research project which reports the experiences of organisations engaged in implementing the Disability Equality Duty (DED). This duty is part of the Disability Discrimination Act 2005 (DDA 2005), which comes into force on 4 December 2006. Readers should note that this was wrongly put in the Disability Rights Commission (DRC) code of practice as 5 December. The DRC has since issued an erratum saying that the correct date is 4 December 2006.

The Disability Equality Duty project

The aim of the project was to explore the implications of implementing the disability equality duty (DED) in the post-school sector, to respond positively to the new requirements. Over 25 organisations were involved, including:

- further education colleges
- sixth form colleges
- adult and community learning (ACL) providers
- higher education institutions
- Adult Learning Inspectorate (ALI)
- Disability Rights Commission (DRC)
- Equality Challenge Unit (ECU)
- Learning and Skills Council (LSC)
- Learning and Skills Development Agency (LSDA)
- Higher Education Funding Council for England (HEFCE)
- National Disability Team
- National Institute of Adult Continuing Education (NIACE)
- Ofsted
- Skill.

The project ran from May 2005 to March 2006 and was managed by the Learning and Skills Development Agency (LSDA) in partnership with NIACE and Skill; it was funded by the Learning and Skills Council (LSC). The project outcomes were disseminated through three events called 'New legislation: new opportunities', which took place between March and May 2006. Issues from these events have been incorporated within the suite of materials.

Organisations in the project were at different points on their journey towards disability equality. Many recognised strengths but also accepted areas that had yet to be addressed. All started work to implement the requirements of the duty to promote disability equality and, within the context of their own organisation and timescale of the project, many identified a particular aspect of disability equality to improve. These focused on one or more of the following requirements of the duty:

- to carry out impact assessments

- to gather information to monitor progress

- to embed disability equality across the whole organisation

- to actively involve disabled people

- to work in partnership with other organisations

- to improve disability equality by tackling institutional barriers.

You can read the reports of the organisations involved in the research on the Learning and Skills Network (LSN) website (www.lsneducation.org.uk). The project was steered by an advisory group of disabled people, which provided an invaluable forum for the exchange of ideas and advice on the direction of the project.

Implementing the duty

Implementing the duty will help close the gap between the expectations, experiences, education, qualifications and employment of disabled and non-disabled people. It will enable you to:

- create a positive atmosphere where there is a shared commitment to value diversity and respect difference

- deliver a first class service; Ofsted, for example, has found that a common characteristic of the highest performing organisations is that they have an inclusive ethos, and the best lessons take place where teaching and learning responds to the needs of individual learners

- achieve a more representative workforce, recruiting from a wider pool of applicants

- meet the requirements of funding, audit and inspection bodies better

- promote a greater knowledge and understanding of disability among all learners, which will benefit society at large.

  If you are leading on the implementation of the DED, you are advised to familiarise yourself with the Code of Practice produced by the DRC, which is a statutory document. It is admissible as evidence in legal proceedings under DDA 2005, and courts and tribunals must take into account any part of the Code that appears to be relevant to issues arising in proceedings. The Code and other guidance materials provided by the DRC are available on the DRC website (www.dotheduty.org). Online guidance documents available on the DRC's website (www.dotheduty.org) include:

- guidance for the further and higher education sectors (from August 2006)

- guidance on evidence gathering

- guidance for disabled people on the Disability Equality Duty (from July 2006).

Using the materials

This suite of materials derived from the project is designed to provide practical advice, tools and examples drawn from practice and offers key messages about implementing the duty. Throughout the materials you will find references to and quotes from the DRC's Code of Practice and other publications. It is advisable to read these materials alongside the Code of Practice.

The suite of materials consists of seven documents (see figure 1).

- **Core document: The journey towards disability equality** is the starting point and needs to be read first. It provides an overview of the main requirements and key activities required when promoting disability equality. The core document also includes a self-evaluation tool to help develop a Disability Equality Scheme and improve disability equality. There are signposts in the core documents to the other booklets in the suite.

- There are five accompanying 'how to' booklets. Each provides more detailed information on the main themes of the duty:
  - ☐ **Booklet 1: How to actively involve disabled people**
  - ☐ **Booklet 2: How to gather and use information to improve disability equality**
  - ☐ **Booklet 3: How to carry out disability equality impact assessments**
  - ☐ **Booklet 4: How to take a whole-organisational approach to disability equality**
  - ☐ **Booklet 5: How to meet the employment duties**
- The remaining booklet is **Booklet 6: How is the disability equality duty different from the race equality duty?** This analyses the similarities and differences between the duty to promote disability equality and the duty to promote race equality, carried out as part of the project.

Figure 1   The seven documents of the DED project
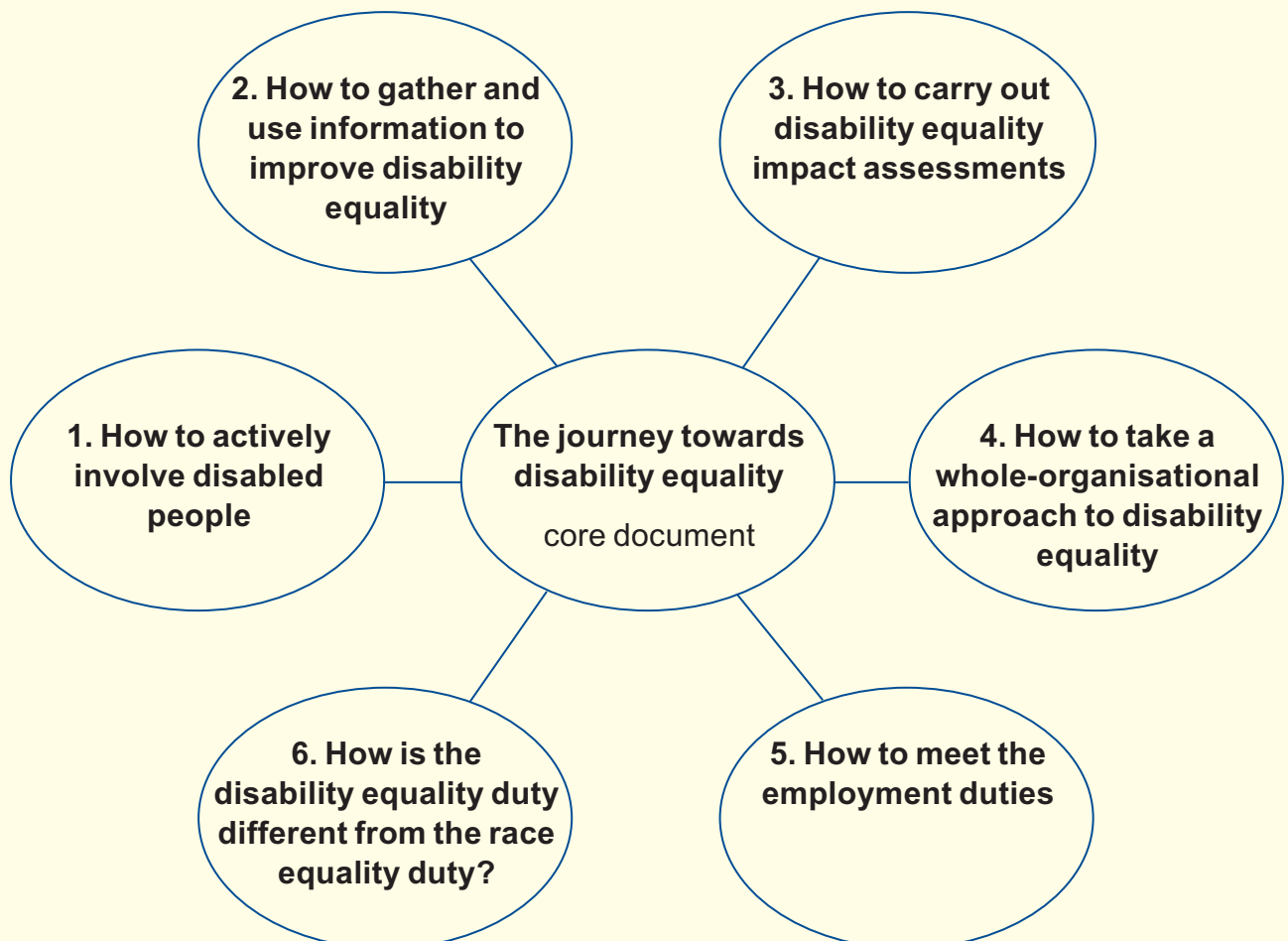
Booklet 5 How to meet the employment duties

Employing disabled people brings a range of benefits to your organisation, such as allowing you to recruit from a wider pool of applicants. Some 70% of us will acquire a disability during our working lives, and responding positively to the duty to promote disability equality will allow you to retain experienced and valued staff. It makes good business sense to employ disabled people, and this booklet will help you to:

- understand the employment duties encompassed within the Disability Discrimination Act – section 1

- appreciate three of the specific duties of the DED, namely the requirement to involve disabled people, carry out impact assessments and gather information to monitor performance – section 2

- consider responses to frequently asked questions on this subject – section 3.

1 ▌ The Disability Discrimination Act employment duties

What do we need to know about the Disability Discrimination Act as an employer?

The Disability Discrimination Act 1995 prohibits discrimination of a disabled person in all aspects of employment, from recruitment and selection to resignation or dismissal.

Discrimination can involve making wrong assumptions about a person's capabilities, treating a person less favourably than a non-disabled person, or failing to make adjustments so that a disabled person experiences a substantial disadvantage, compared with a non-disabled person. Discrimination can be direct (where less favourable treatment is directly related to a person's disability) or indirect (where less favourable treatment is related to a person's disability but is not the disability itself). Discrimination can also include victimisation, and harassment. Further information can be found in the DRC code of practice for DDA 1995 Part 2 (DRC 2004b) (new from 1 October 2004).

The Disability Discrimination Act 2005 places a duty to promote disability equality on all public sector organisations. This legislation builds on the progress already made by many providers in improving disability equality in education. However, it will extend the DDA 1995 requirements – to anticipate and respond to the individual needs of disabled people – to a duty under which organisations are expected to embed disability equality into all decisions and activities. This means that disability equality becomes central and integral to all that we do, rather than a 'bolt-on extra'. It will help shift the focus away from the needs of individuals and onto the policies, procedures, plans and practice of organisations. It will also help to eliminate discrimination and dismantle barriers before they are able to have an impact on individuals. Education authorities must take note of the act in their role as provider of educational opportunities to learners and in their role as employers.

There are six inter-related parts to the duty to promote disability equality, also known as 'the general duty' or 'disability equality duty' (DED). This means that public authorities, in carrying out their functions, must have due regard to the need to:

■ promote equality of opportunity between disabled people and other people

■ eliminate unlawful discrimination

■ eliminate disability-related harassment

■ promote positive attitudes towards disabled people

■ encourage participation by disabled people in public life

■ take account of disabled people's disabilities, even where that involves treating disabled people more favourably than others.

In addition to the general duty there are specific duties for listed public authorities including education providers and funding bodies. Organisations covered by the specific duties must publish a Disability Equality Scheme (DES) by 4 December 2006.

One of these specific duty requirements is to involve disabled people actively; they 'require a public authority to involve disabled people who appear to the authority to have an interest in the way it carries out its functions in the development of the Disability Equality Scheme' (DRC 2005, p56). This means that in developing your DES, you will need to take a systematic approach to involving disabled people, and articulate it within your DES.

Another of these specific duty requirements is to carry out disability equality impact assessments on all policies, procedures, plans and practice. Many organisations have carried out DDA audits, not just on the accessibility of premises but also on organisational policies and procedures in response to the requirements of DDA 1995 Part 4. An impact assessment will build on but also go beyond this work. For example, many audits tended to focus on learner requirements, and human resources policies and procedures were often not covered.

A further specific duty requirement is to gather and make use of information in order to assess the impact of activities on disabled people and to measure progress towards disability equality. A DES should include:

■ the type of information used to monitor disability equality, and specifically the recruitment, retention and career development of disabled staff

■ an explanation of how the organisation intends to use this information to promote disability equality, and specifically:

   ☐ to prepare an action plan

   ☐ to review the effectiveness of such an action plan and to prepare subsequent Disability Equality Schemes.

(You will also need to include the type of information used to monitor disability equality for learners, which is outside the scope of this booklet. For further information, see 'How to gather and use information to improve disability equality').

Who are disabled people?

The term 'disabled person' covers people with a wide range of impairments and health conditions. A person's impairment must have a 'substantial', 'adverse' and 'long-term' effect on their ability to carry out normal day-to-day activities. 'Substantial' means that it is more difficult or time-consuming to carry out an activity compared with a non-disabled person. 'Long-term' means that a person's impairment has lasted or is likely to last for more than 12 months. Normal day-to-day activities include mobility, manual dexterity, physical co-ordination, continence, ability to lift and carry everyday objects, speaking, hearing, seeing, memory, ability to concentrate, ability to learn or understand and perception of the risk of physical danger.

The term 'disabled person' includes people who:

■ are hard of hearing

■ have visual impairments

■ have medical conditions such as epilepsy, diabetes, heart disease or arthritis

■ have progressive conditions such as HIV, cancer or multiple sclerosis

■ have mental health difficulties such as depression

■ have specific learning difficulties such as dyslexia

■ are wheelchair users.

Further information on the meaning of a disabled person can be found in Appendix B in the core document of the toolkit.

There are approximately 10 million disabled people in Great Britain, which represents one in five of the working population. Only 50% of disabled people of working age are in employment compared with 81% of non-disabled people. Many unemployed disabled people have skills, qualifications and want to work.

There are currently around 3.3 million disabled people in employment, making up around 12% of all people of working age in employment. Certain groups are under-represented; for example, people with visual impairments and learning difficulties have lower employment rates than disabled people generally. People with mental health difficulties have the lowest employment rates of all impairment categories, at only 20%, even though many want to work and employment can bring positive benefits to a person's mental health and recovery.

Why should we employ disabled people?

Managing a diverse workforce is increasingly recognised as a key factor in improving efficiency and effectiveness. Being a flexible employer will mean that you get the very best out of your staff. Employing disabled people can:

- help create a positive atmosphere where there is a shared commitment to value diversity and respect difference

- make your workforce more representative of the community that you serve

- allow you to recruit from a wider pool of applicants

- ensure you retain valuable members of staff

- help improve staff morale and productivity, by showing that all staff are valued and treated fairly.

Seven out of ten people will acquire a disability during their working life. If employers fail to make adjustments to employees who acquire a disability, they may well lose experienced and skilled members of staff, depriving themselves of valuable assets. It is often more cost-effective to provide adjustments than to hire and retrain a new member of staff.

Contrary to popular assumptions, disabled people generally stay in their job longer than non-disabled colleagues, have good punctuality records, low absence rates and a strong commitment to work. Research by the Employers' Forum, for example, showed that disabled people had fewer days off sick than non-disabled workers, their productivity rates were on par with non-disabled colleagues and disabled people had a better safety at work record. It therefore makes good business sense to employ disabled people.

How do we employ disabled people?

Medical or social model of disability

Employment approaches should be based on the social model rather than the medical model of disability.

The medical model of disability focuses on the idea that the problems people face are a direct result of their own health or impairment. This model takes a narrow labelling approach, which can perpetuate stereotypes. The social model of disability, in contrast, refutes the medical model, and shifts the focus from what is 'wrong' with the disabled person to what is wrong with the attitudes, systems and practices in an organisation, as it is these that often create disabling barriers and prevent participation by disabled people. An organisation can dismantle these barriers by making adjustments to working practices and physical features, and also by changing staff attitudes and prejudices. The social model of disability promotes the right of a disabled person to be valued, to determine choice and to be treated with equity. Further information on the two models of disability can be found in Appendix C of the core document.

The social model of disability provides the key to the successful understanding and implementation of the disability equality duty.

Recruitment and selection processes

You need to think about the wording that you use in adverts so that you do not inadvertently discriminate against disabled people or create artificial barriers. For example, advertising for 'active and energetic' staff could lead to discrimination if these requirements are not essential for the job and disabled people are excluded as a result. It is better to advertise the tasks involved within the job role. It is unlawful to cause the publication of a discriminatory advert and unlawful actually to publish it. So an education provider and a newspaper could both be in breach of DDA 1995 if such an advertisement was published. Only if a criterion in a recruitment advertisement is a genuinely essential requirement of a role, which it would not be reasonable to waive in any individual case or any circumstance, would it not be deemed unlawful.

You may also want to review your promotional and recruitment literature to avoid phrases that assume people do not have impairments, such as 'we are five minutes' walk from the station'.

To widen your pool of applicants, you might want to consider including statements in adverts encouraging disabled applicants to apply. You might also want to consider advertising in your local Jobcentre Plus office, and in newsletters of local organisations of and for disabled people.

A human resources officer from one organisation observed:

We need to be aware that the usual methods of advertising for staff may not be as appropriate when trying to attract staff with disabilities. In conversations with current staff with disabilities a number of them had found out about the vacancies through word of mouth. There are some specialist publications, for example the Royal National Institute for the Blind Newsletter and Guide Dogs for the Blind magazine, especially for people with visual impairments, which have sections for job vacancies. In addition, the use of the local radio is also a good method of reaching potential employees who are not yet employed.

Recruitment of staff from black and minority ethnic groups has been most successful when advertisements have gone direct to the community groups. We will use this experience and look at how this could be applied to the recruitment of staff with disabilities.

It will be important for you to review job descriptions and person specifications for inadvertent barriers which might cause low scores during the shortlisting process. It will also be important to ensure that all staff involved in the interview process, such as those shortlisting applications for interview and sitting on interview panels, have disability equality training before undertaking such roles.

The 'two ticks' symbol – Positive about Disabled People – has been developed in conjunction with Jobcentre Plus as a means of identifying employers who are positive about employing disabled people, and who want to demonstrate that commitment by displaying the symbol on advertisements. If you want to become a 'two ticks' employer and use this symbol, you must make the following five commitments:

- to interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities

- to ensure there is a mechanism in place to discuss, at any time, but at least once a year, with disabled employees what can be done to make sure they can develop and use their abilities

- to make every effort when employees become disabled to make sure they stay in employment

- to take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work

- each year to review the five commitments and what has been achieved, plan ways to improve them and let employees and Jobcentre Plus know about progress and future plans.

For further details, contact the Disability Employment Adviser at your local Jobcentre Plus office.

You may need to consider making adjustments in the recruitment and selection process, for example:

- ensuring that application forms are available in alternative formats such as large print or audio tape; it is helpful if disabled applicants can submit their applications on disc or online

- asking candidates if there are any particular access requirements for interview, and providing the name of a person to contact if this is the case

- providing additional time for a test

- holding interviews in a building that is physically accessible.

It is easy to make assumptions in the recruitment process. For example, when recruiting for enrolment staff in City Lit's new building, staff in the Centre for Deaf People were keen for a deaf person to be appointed to an enrolment post. There was an assumption that a deaf person would have difficulty communicating with hearing people and would not be able to use the telephone. This was despite a number of the current deaf staff having few problems communicating and some who can use the telephone.

Case Study – Jon

Jon was involved in a road traffic accident in March 1990, which resulted in him losing his sight. Following retraining he undertook a number of administrative roles and became qualified as a human resources professional.

Jon joined the college in March 2004 as a human resources officer. Jon's experience of the recruitment and selection process was very positive. The job description and personal specification arrived the day after he requested it, although the time from submitting the application to being contacted seemed a long time (the college does not acknowledge the receipt of applications because of cost). Jon received a telephone call informing him that he had been shortlisted and inviting him for interview. The interview and selection process was explained and he was asked if he needed any modification to enable him to undertake the process. He was able to discuss what he needed and this was made available for him.

At the selection event Jon gave a presentation using an overhead projector and transparencies to the interview panel. For the written task element of the process he was supplied with a person to read the task questions and they wrote down his responses as there was no speech computer access that he could use himself.

He felt that the interview process had been fair and that he had been put at ease and was delighted to be offered the job. After the offer Jon was contacted and discussions took place about what equipment and support would be needed to enable him to be effective in his work. He outlined what he was currently using – voice on computer, a scanner, a dictaphone for taking messages, and a person's time to help read documents and access information which could not be done electronically. The human resources (HR) system containing employee records was partially adapted by Blaisy Engineering to enable Jon to access them.

A new HR system is currently being purchased, which will provide fuller access to staff information and records. These adjustments have enabled Jon to be successful in his job and money to facilitate the adjustments was provided through the Access to Work Scheme at minimal cost to the college.

Making adjustments for disabled staff

Newly appointed staff may not have disclosed during the recruitment and selection process, and induction provides a further opportunity for disclosure. Blackpool and The Fylde College is a large college operating on four main campuses and employs over 1300 staff. The college updated its induction process to include an equality and diversity module that makes clear the mechanisms for arranging support for disabled staff. They also revised a procedure for staff who disclose a disability or become disabled during employment. The following case history illustrates the benefits of these changes to one individual.

Case study: John

John (name changed) attended the mandatory 2 hour introduction to Equality and Diversity. After the session John approached both trainers confident to discuss his own hearing impairment and ask for support. John explained that he was struggling in the classroom and in taking telephone messages, often mishearing and giving incorrect messages. He felt this was causing friction with colleagues. John did not realise he could access support. John's request for support was passed via personnel to learning support who arranged for a technical assessment. As a result John was assigned to a teaching classroom where a loop system was installed and a telephone with a microphone put in the office. John commented on how supportive the whole process had been and how his working environment had been significantly improved.

John's situation highlighted the need for us to publicise the support available to staff in the same way as for students and where appropriate to celebrate the success of staff supported.

Blackpool and The Fylde College is in the process of rewriting the recruitment pack that it sends out to prospective employees to highlight that they are a 'two ticks – Positive about Disabled People' employer, and to provide information on the support available to disabled staff.

City Lit College also wants to promote the support it gives to disabled employees and has decided to gather 'good news' stories to encourage staff to discuss support options with HR. Examples of this include:

- systematically assessing 'Access to Work' to support staff across the college with work and training

- issuing laptops to a number of staff with dyslexia to help them work at home and other areas that are quieter than the college's open-plan offices

- assigning Alexander Technique tutors for two hours to give one-to-one tuition and support where workstation assessments have identified potential upper limb issues

- agreeing staged back-to-work plans after periods of long illness or absence due to a disability.

Once staff disclose a disability or learning difficulty, it is important that someone in the organisation is available to discuss the adjustments that can be provided to them, for example:

- allowing flexibility in a person's working hours

- providing special equipment or computer software such as a telephone fitted with an amplifier, or voice-activated software

- making adjustments to premises, such as installing hearing loops and ensuring paintwork provides appropriate contrast

- allowing someone to use a dictaphone and extra time when taking minutes

- providing materials in advance of a meeting

- ensuring that staff training events are accessible.

Changes of this type are often comparatively low-cost, and are implemented routinely as good practice by responsive and flexible employers.

Organisations often rely on occupational health advisers to assess the support requirements of disabled employees, but the quality of this service can be varied. People interviewed by occupational health advisers have reported that sometimes these advisers take a medical rather than a social approach. It is useful to ask disabled staff about their experiences of this service and how it can be improved.

Case Study – Mark

Mark is a double below-the-knee amputee with a congenital deformity to both hands. He joined the college in September 2002 as a sports lecturer and then moved to the position of Sports Development Officer. Mark has recently left the college to take up the position of coach to the disabled England Rugby Team.

Mark learnt of the vacancy at the college through a friend. Mark was very positive and direct about his disability on the application form and very carefully worded it in such a way that it showed that he could overcome difficulties.

Mark confessed to being a little naïve at first about the adjustments necessary and the implications of his disability. The college has had to make some adjustments in order to make his office user-friendly.

Writing on boards can be difficult. Sometimes he gets help from others and it is easier for him now that he is able to use the interactive white boards.

Mark's confident attitude ensures that others see what he has achieved, and he has earned respect from students and colleagues. His sporting achievements show what can be done even if you have a disability.

Mark feels that overall he has been successful in his role. He has greatly enjoyed teaching on the sports programme and developing and supporting activities that take place at weekends. He looks forward to continuing to inspire the students and be a role model in his new job, and intends to keep close links with the college in the future.

You may also want to make sure that you tell all managers where they can find out about the adjustments that can be made and equipment that is available for disabled people, and who to go to for advice about disability matters. One organisation involved in the DED project made the point that these activities are essential, to help prevent the 'panic' that managers can sometimes experience if one of their staff discloses that they are a disabled person.

2 ▌ Meeting the specific duties of the Disability Equality Duty

There are three specific duty requirements that HR staff particularly need to consider in response to the duty to promote disability equality. These are:

■ involving disabled people

■ carrying out impact assessments

■ gathering and making use of information.

Involving disabled people

You should actively involve disabled people not just in drawing up your DES, but through all key aspects of its implementation. These include:

■ carrying out impact assessments

■ identifying appropriate mechanisms to gather and make use of information

■ recognising barriers faced by disabled people in the organisation

■ setting priorities in the action plan

■ assisting planning activities.

Sites in the DED project found that taking a personal and direct approach seemed more successful than making indirect approaches, such as asking for volunteers through newsletter articles, letter or by e-mail. Some sites, however, had success through the latter approach. For example, the London School of Economics placed a message on the payslip of every member of staff, which said 'be part of the disability equality steering group' and gave the e-mail address to reply to. Response was good, with two replies received on the very same day that the payslips went out to staff. Plymouth University did a mailshot to all staff. Some staff said that they were happy to have a chat but did not want to join a group. This illustrates the importance of exploring different methods of getting disabled people involved.

The Learning and Skills Development Agency (which has evolved into the Quality Improvement Agency for Lifelong Learning and the Learning and Skills Network) sent out an invitation to all staff to join an open session at a staff development day, which was marketed at staff who:

- were interested in disability issues
- knew or cared for someone with a disability or learning difficulty
- had a disability or learning difficulty themselves.

A list of what was meant by disabilities and difficulties was attached, which specifically mentioned some areas where people might not consider themselves disabled (such as long-term illness or dyslexia and related difficulties). In addition we clearly stated that no one would ask why individuals were interested in joining the group.

Such an approach allows disabled people to contribute to discussions without being required to disclose their disability.

City Lit also intends to take this approach:

The Heads of Human Resources and Learning Support will lead on the implementation of impact assessment of City Lit policies, procedures and practices. As a part of this they have been tasked with forming interest groups of staff and students with disabilities. It is proposed that the staff group will not be composed solely of people with disabilities as this would potentially identify them as having a disability, when they may not want this to happen. The group will be open to any member of staff with an interest in disability equality issues, an anonymous poll of that group will ensure that members of staff with disabilities are well represented. This group will be asked to review how current staff are surveyed to obtain data of the number of staff with disabilities and to suggest improvements.

Involvement will represent a 'continuum' of activities that can include focus groups of disabled staff, one-to-one interviews, anonymous surveys, discussions with external agencies that are of and for disabled people, and the participation of disabled people within a steering group responsible for the development and implementation of the Disability Equality Scheme. However, the DRC Code of Practice makes clear that 'involvement is particularly important given the under-representation of disabled people in positions which determine policies and priorities of public activities (2005, p41). It will be relatively easy to get feedback on the opinions and experiences of disabled staff. It will be a greater challenge to ensure that disabled people are actively and genuinely involved in policy-making and decision-making activities, particularly at a senior level. Yet both will be important if we are truly to engage with disabled people.

For further information, see the accompanying booklet 'How to actively involve disabled people'.

Carrying out impact assessments

A disability equality impact assessment is a detailed, systematic analysis of the effects of a current or proposed policy, procedure, plan or practice to see whether it has or will have a differential impact on disabled people. It is also investigates whether disability equality can be better promoted in an organisation. For example, it considers where different parts of the disability equality duty, such as promoting positive attitudes, might be built into those policies, procedures, plan or practice.

The impact assessment process is an important mechanism for ensuring that due regard is given to disability equality in all policy development and decision-making activities. The process is not normally something that is carried out once a policy, procedure, plan or practice is in place. However, organisations have current policies, procedures, plans and practice that they will need to assess. This is because they need to have due regard to disability equality when making decisions in the future, but also need to tackle the consequences of decisions in the past, which have not given sufficient due regard to promote disability equality. This will mean that there is likely to be a significant 'back catalogue' of existing policies, procedures, plans and practice to impact assess. The first DES and action plan will therefore need to set a timetable to carry out a rolling programme of impact assessments over the three-year period of the DES.

Carrying out an impact assessment on all current policies, procedures, plans and practice may seem a daunting task, but the process does not need to be complicated or cumbersome if it is broken down into a series of steps. These include:

■ Step 1 Map all policies, procedures, plans and practice. This should be carried out at organisational and departmental level.

■ Step 2 Screen to determine priority.

■ Step 3 Consider the evidence. It is likely that you will already have qualitative and quantitative information available and the previous step may have identified the need for further information to be gathered.

■ Step 4 Assess the likely impact. It will be important to consider all six parts of the disability equality duty when making judgements.

■ Step 5 Explore options and make decisions. If you find adverse impact or identify opportunities to promote disability equality in a better way, for example, then you will want to change the policy, procedure, plan or practice.

■ Step 6 Identify monitoring processes. Your impact assessment will have helped you to identify or anticipate the actual or likely impact of a policy, procedure, plan or practice on disabled people. The revisions you put into effect will take account of your findings, but you will only know the actual impact of changes once the policy, procedure, plan or practice is put into operation. This means that you need to identify appropriate monitoring activities to see what happens in reality.

- Step 7 Publish your results. A report should be compiled at the end of the impact assessment process that summarises the outcomes of your activities.

  Once the process of impact assessment is established, and all existing policies, procedures, plans and practice are assessed, the process can become part and parcel of everyday work. This will allow you to design policies, procedures and plans from the start with the needs of disabled people in mind.

  For further information, see the accompanying booklet 'How to carry out disability equality impact assessments'.

  National Star is an independent specialist college with 460 employees. A team of staff, including three with differing disabilities, have carried out an impact assessment of recruitment and selection process. Outcomes have included:

- adapting paperwork

- changing recruitment literature

- designing and making available electronic online application forms

- drafting a new employment charter, which is advertised on the college website and provided to new staff during induction.

  The charter can be seen in figure 2.

Disability Employment Charter

Pro-active recruitment methods will encourage applications from and the employment of people with a disability.

All disabled applicants who meet the minimum selection criteria for a role will be interviewed.

The college will ensure that the working environment does not prevent people from taking up a position for which they are suitably qualified/experienced.

The college will:

- promote an inclusive environment ensuring disabled people are treated as individuals and receive equal treatment

- promote a work environment where individuals are treated with respect

- provide opportunities and support for all to fulfill their potential

- promote positive attitudes towards staff with disabilities ensuring that disability equality is embedded within the culture.

Employees with a disability will have the same opportunity as others to develop their full potential within the college. To support this, career counselling will be offered and training activities sourced to support individuals' personal development plans.

The college will set improvement targets and impact measures and monitor its progress in implementing the Charter, reporting annually.

Disability awareness-raising and staff development activities will be undertaken throughout the college, including offering work experience placements.

Support will be given to any employees who acquire a disability, enabling them to maintain or return to a role appropriate to their experience and ability within the college.
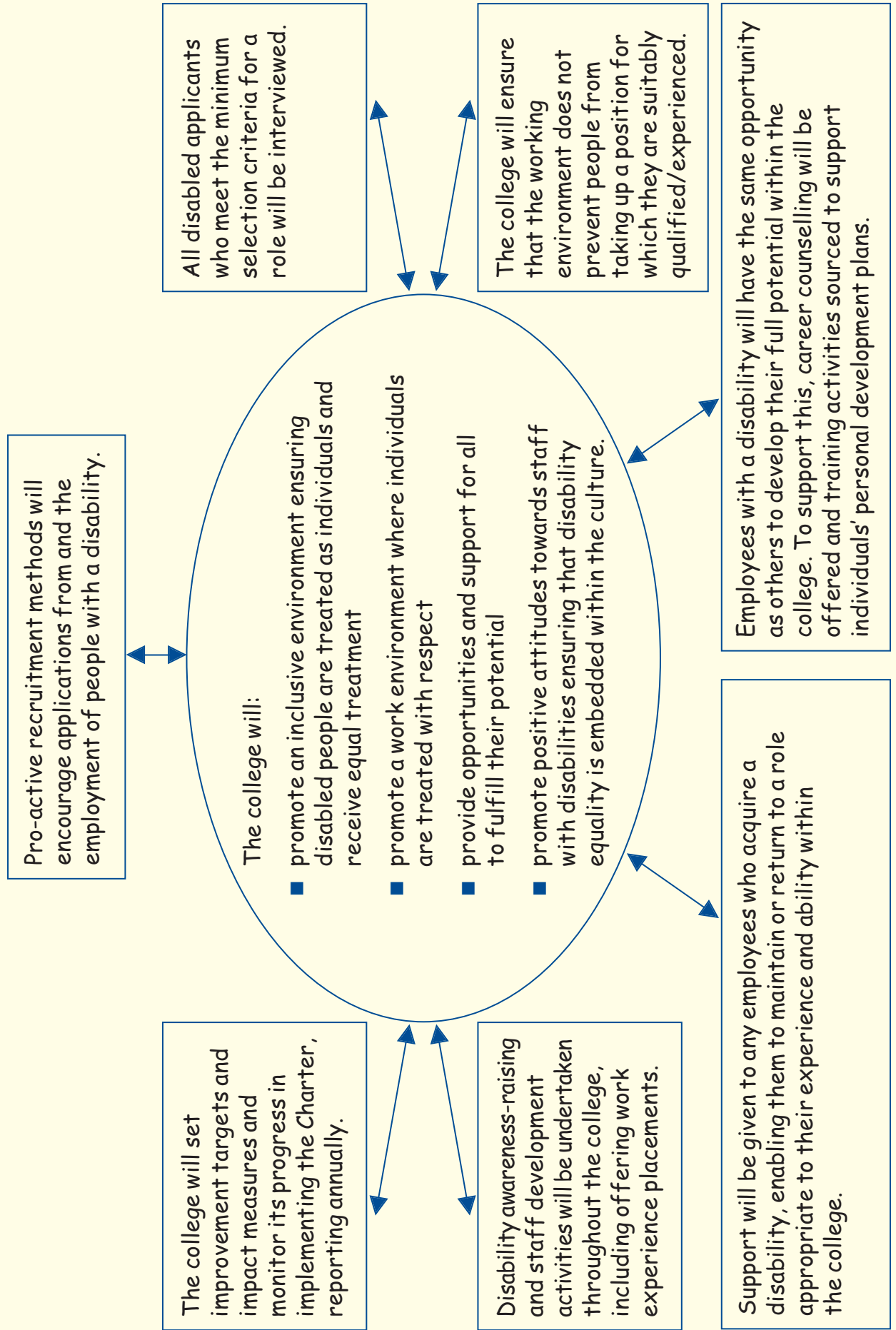
Figure 2.   Disability employment charter of National Star College

Case Study – Jackie

Jackie joined the college in November 2002 as head chef. Jackie really enjoys her job at the college; she finds it very challenging, and was devastated when she was diagnosed with cancer in May 2004. It was a very anxious time as she didn't know what the outcome would be and she underwent surgery at the beginning of July. She said that the support received from her departmental director, the HR team and occupational health adviser over the period of diagnosis and hospitalisation in July was exceptional. This continued throughout the rest of her treatment, chemotherapy and radiotherapy. She felt that she could not have received more support from the college. She was very touched by the cards and bouquets that she received, and the team support was both practical and emotional.

Jackie really appreciated the help received from occupational health and the HR team. She received home visits from them and on her return to work she was allowed to stagger her hours, which meant that she could return earlier than she would have normally as she was physically not able to do her job fully from the outset. Her hours were also adjusted so that she could attend special relaxation and support sessions at the hospital.

Jackie's colleagues in her team are aware of the physical constraints of the surgery and that she is unable to undertake exactly the same responsibilities that she had previously. With adjustments she is now working fully with her team again and bringing the happiness and enthusiasm she exudes back to the Star Café.

Gathering and making use of information

As we have seen in the previous section, you will need to monitor the recruitment, retention and career development of disabled staff. This may include collecting information on:

- staff training, such as who applies and who is offered training

- promotion, such as the success rates for disabled employees

- termination, such as redundancies, resignations, dismissals and end of fixed-term contracts.

'Development' can cover performance reviews, workplace benefits and facilities, as well as treatment generally, including harassment, discrimination, grievance and disciplinary action.

It is likely that you already collect some information about disability equality. For example, you may monitor the recruitment and selection of staff in terms of disability and learning difficulty. You may also collect other information that can easily be disaggregated to identify the experiences of disabled people compared with non-disabled people. For example, you could add disability-related questions to annual staff surveys, and analyse the results of such surveys by disability or learning difficulty.

As a starting point, therefore, you may wish to consider the following questions:

- What information do you currently gather in relation to disabled staff?

- What are the strengths and weaknesses of current information-collecting mechanisms?

- Who is responsible for collecting disability equality information and how is it used?

- What are the views of disabled people on how this information could be improved?

- What further information-gathering processes can you implement to improve the information you collect?

As a starting point, you may also want to find out whether:

- your organisation employs a proportionate number of disabled people compared with national statistics such as those mentioned in section 1 of this booklet

- your staff database is accurate and up-to-date

- you can further maximise staff response to surveys which provide an opportunity for declaration of a disability or learning difficulty

- you have identified strategies to address any gaps from data analysis

- the retention of disabled staff compared to non disabled staff is on par

- disabled staff access and are satisfied with staff training activities compared with non disabled staff

- disabled people are represented at all management levels and in all areas of your organisation

- there are particular groups of disabled people who are under-represented in your workforce

- there are barriers that disabled people experience in your organisation.

You should gather qualitative and quantitative information from a wide range of sources, using a variety of methods. Consider different types of information such as statistics, information from questionnaires, and the results of interviews with and focus groups of disabled people. The types of information that you gather will need to identify barriers that disabled people face as well as those which measure successful outcomes such as the improved satisfaction rates of disabled staff. It is likely that your first action plan that accompanies your Disability Equality Scheme will need to identify the steps you intend to take to extend existing measures.

At times it may be necessary to collect and analyse information by impairment type. This causes a tension between striving to adopt a social model of disability while ensuring you have robust information gathering processes. You might understandably argue, for example, that having a visual impairment, experiencing a mental health difficulty or acquiring a medical condition are all 'labels' that provide little or no indication of organisational barriers that must be removed to ensure an equitable employment experience.

However, the Disability Rights Commission's Code of practice points out:

Disabled people with different impairments can experience fundamentally different barriers, and have very different experiences according to their impairment type. It will often be necessary therefore to monitor outcomes according to impairment type to capture this information.

(2005, p80)

Monitoring the experiences of disabled people by impairment type can help you to identify organisational barriers that might not immediately be apparent had information just been broken down to analyse the collective experiences of disabled people.

Disabled people will be able to help you to identify whether asking people about the nature of their impairment, or analysing information by impairment type, would serve a useful purpose. Trade unions and people from external agencies and organisations will also be able to contribute to these discussions.

Appendix A contains a list of the different types of information that you might want to gather.

It is not enough to gather information – you also need to ensure that this information is used effectively to inform planning and improve your performance. You will need to include a statement in your Disability Equality Scheme on how you will use the information to promote disability equality.

For further information on meeting the specific duty requirement to monitor, see the accompanying booklet 'How to gather and use information to improve disability equality'.

Case Study – Gemma

Gemma has a learning disability and has been employed as a part-time housekeeper at one of the college's off-site residences that provides accommodation for students since October 2002. She was supported into employment through the Shaw Trust who had originally organised her previous employment.

Gemma's sister already worked for the college and saw the vacancy advertised internally and advised her to apply for it. Gemma said that she had an interview and her mother went with her. She was asked some questions and everyone was very nice and helpful and didn't think the college should change the way that this was done.

Gemma said that she doesn't let her disability affect her and just rises above it. She said that she does struggle with her reading and spelling but she is getting better.

Gemma has a routine for her job and all the staff are there to help. Everyone is friendly and supportive and she felt that she was treated equally and fairly the same as everyone else. She had enjoyed all the training she had been on she felt that she was already successful and wanted to stay working at the college.

What about the issue of non-disclosure?

It is difficult to engage with disabled staff to collect their views and experiences if you do not know who they are. A number of sites found that staff records were likely to be inaccurate. Many sites in the DED project, for example, had staff individualised records (SIRs) that indicated that only 1–2% of staff had a disability or learning difficulty. Blackpool and the Fylde College, for example, had only 30 staff (2%) disclosing a disability at the staff audit in January 2004, and 406 (27%) staff not indicating whether they believed themselves disabled or not.

We have seen that one in five people of working age (20%) are covered by the definition of disability under the DDA 2005. Unlike race, where the percentage of people from a black and ethnic minority group varies by region, the statistic for disabled people applies nationally. This is a useful comparison, which can highlight significant issues of under-declaration or under-participation.

City Lit surveys staff via their payslip every two years to ensure the information held in Human Resources (HR) is correct. Staff are asked: 'Do you consider yourself to be disabled?'; this is the only formal ongoing opportunity staff have to declare a disability. In 2005 only 26 members of staff (2.4%) had identified themselves as having a disability. To try and rectify this situation, in the same year HR staff sent a different survey to all staff – see figure 3. In response to this, 44 slips were returned. Although this is not a high return, it still represents a 70% increase in identification.

Figure 3. Survey on disability that City Lit sent to all staff in 2005

Important Survey

The Disability Discrimination Act 2005 creates a duty on public authorities to promote disability equality. As a part of this City Lit is reviewing how it supports its employees with a disability and those who develop a permanent or temporary disability whilst in our employment.

We recognise that disabled people face exclusion and discrimination because barriers are placed in the way of their full participation in society. While the achievement of equality may call both for adjustments to working practices and physical features, even more profoundly it will require the transformation of attitudes – an abandonment of the traditional approach based on what a person with a disability can't do, to one based on the approach of what he or she can do.

As a part of our disability equality scheme City Lit will publish clear guidelines for the support of staff with a disability.

As a first step we wish to gain a better appreciation of the number of staff with a disability that we employ.

We would therefore be grateful if you could tear off and return the question below if you believe that you may be covered by the Disability Discrimination Act.

The Act covers anyone who has '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'.

In practical terms you may be covered if you have a long-term health condition that has an impact on your day-to-day life. This means that not only are visible disabilities, mental health conditions and learning difficulties covered, but also a range of other conditions are too, such as diabetes, disfigurement and arthritis. Also, cancer, multiple sclerosis, and, HIV are covered from the point of diagnosis.

Please be assured, this survey is anonymous and will be used solely to gain an accurate picture of the number of staff who may be covered by the Disability Discrimination Act. If you would like to discuss this further in confidence or require any more information or support with a disability please contact me.
XXXX (name of member of staff)　　XXXX (email address)
Head of Human Resources　　　　　　XXXX (telephone number)
I believe that I may be covered by the Disability Discrimination Act
Please return in the enclosed prepaid envelope

There may be a low number of people disclosing that they have a disability or learning difficulty for a variety of reasons. For example, a significant proportion of disabled people do not realise that they are covered by the DDA definition of a disabled person. Simply asking the question 'Do you have a disability?' is therefore probably unhelpful. Even if people are aware that they meet the definition, they may choose not to disclose, which is particularly pertinent given that a significant number of impairments are not immediately obvious, such as mental health difficulties or medical conditions such as cancer. People may be concerned about the consequences of disclosure, fearing, for example, that disclosure may invite discrimination or have a negative impact on their job prospects.

A disabled member of staff at one of the sites involved in the DED project explained that there was no point in disclosing her disability. The organisation did not have mechanisms in place to identify support requirements or arrange adjustments and there would be no benefit in disclosing, only potential disadvantages, such as this information adversely affecting her promotion opportunities. Another member of staff said that her disability was not easy to explain and its effects on her work were not always the same. She said that she was not clear about who she should talk to and was not confident that declaring her disability would make any difference to her situation at work, as previously anxieties and questions had been misunderstood as complaints. Staff at the site have recognised that there is insufficient overall coordination of the support given to disabled staff. Currently it is 'split between the line manager, learning support department, Human Resources and the health & safety advisor, without any of these departments or job holders therein having specific or identified responsibilities'.

In order to encourage staff to disclose a disability, it will be important to address these sorts of issues in your organisation. It is also worth bearing in mind that people are more likely to disclose if you:

- explain what the benefits of disclosure are
- explain why you are asking for the information
- guarantee confidentiality, if the information is not collected anonymously
- give examples, if the word 'disability' is used
- explain what will happen if a member of staff discloses.

Ultimately, the culture and ethos of your organisation, such as one in which diversity and disability are celebrated and respected, will have an impact on whether staff disclose or not. Further information on encouraging disclosure and respecting confidentiality can be found in the accompanying booklet 'How to gather and use information to improve disability equality'.

Finally, it is important to appreciate that 'disability' is dynamic, and information will need to be collected at regular intervals as people may become disabled after the data were originally collected. This is particularly relevant for staff monitoring, as staff are likely to stay with an organisation longer than learners do. The Employer's Forum on Disability recommends between that repeat surveys should be carried out every one to three years.

Can we ask people if they meet the definition of a disabled person on job application forms?

There are three main reasons why you might want to ask people this during the recruitment and selection process. The first is to ensure that you can make adjustments, for example finding out if you need to provide extra time for an interview task, an accessible interview room or an accessible car parking space. The DRC gives the following statement as an example that you might want to consider: 'Please let us know if you require any reasonable adjustments, due to a disability or health condition, to enable you to attend interview, or which you wish us to take into account when considering your application.' One of the sites in the DED project asks 'Do we need to make any reasonable adjustments to ensure that you can participate fully during your interview?'

The second reason you might want to ask is for monitoring processes, for example to ensure you are not being discriminatory in recruitment and selection practice. You might have a separate and detached monitoring form for this purpose, which probably includes other equal opportunities monitoring questions. If this is the case, it is helpful to explain clearly the purpose of the form and to state that information is confidential, not individually identifiable, will not be used in any way in the decision-making process and will be used only for statistical monitoring. Staff at one site in the DED project, on looking afresh at its paperwork, recognised:

Questions on disability are asked in the diversity section of application forms. This section is not disclosed to shortlisting or interview panels. However, there is insufficient explanation around the question and a request for information about any disability is inappropriate as it does not put into context why this information is requested. The guidance notes that accompany the application form do not offer further guidance.

The third reason you might want to ask if people meet the definition of a disabled person on job application forms is if you are a 'two ticks' employer, when you are committed to interview all disabled applicants who meet the minimum criteria for a job vacancy.

How can we afford to employ a disabled person if we need to make costly adjustments?

Many adjustments cost little or nothing, and the average cost for such adjustments is £75. Often it is simply a matter of responding flexibly to someone's requirements, for example providing food breaks for someone to manage diabetes, or allowing someone time off to attend a doctor's appointment.

For more costly adjustments, Access to Work is a government scheme operated by your local Jobcentre Plus. The disability adviser will provide you with support and practical advice on the funding available to help you make adjustments. For example, the scheme can pay extra employment costs such as fares to work if transport is difficult, provide specialist equipment such as voice-activated software, support workers or communicators, and help you make other adaptations. You can find your nearest Jobcentre Plus office online at www.jobcentreplus.gov.uk.

Workstep is a programme for people with complex support needs; it can help financially with costs not covered by Access to Work.

How will the new duties affect plans for staff development activities?

People may need additional skills to deliver the requirements of the duty to promote disability equality, such as carrying out impact assessments and gathering information on disability equality progress and performance. Many of the sites in the DED project carried out staff training events, including:

■ awareness raising of the new duty for staff, for example with senior managers and governors

■ training managers to carry out particular aspects of the new duties such as impact assessments

■ training for new job roles and responsibilities such as disability equality champions.

You may need to provide further guidance, training and support to help departments develop appropriate approaches. You may, for example, require an ongoing rolling programme of staff development activities across the institution to achieve a 'critical mass' of knowledgeable, confident and skilled staff. It will also be important to embed disability equality into all staff development activities so that this becomes an integral part of the culture of the organisation.

A staff member at Blackpool and the Flyde College made the following observation:

Whilst the staff development at the college is superb we recognise that there are still staff from all areas that are anxious about meeting and working with disabled colleagues. We recognise that attitude to disability and behaviour play a large part in determining how difficult or comfortable the experience is in the workplace. Our aim is to encourage and enable an open and supportive environment; however, we are not complacent enough to believe this can be done easily and quickly, hence we have a clearly developed training action plan related to equality targets.

Staff development motivates people and helps them to work effectively and confidently. For some, staff development can build on existing skills and experiences, while for others, it can help move staff out of comfort zones, adding new areas of knowledge and understanding. It can help staff to articulate fears and apprehension and encourage them to seek advice in developing new approaches. These are essential aspects for organisations to consider as they implement the duty to promote disability equality.

Case Study – Ed

Ed has Spina Bifida and hydrocephalus and uses a wheelchair to enable his mobility. He joined the college in September 1999 as a tutor in the IT department and is now a personal tutor.

Ed had a very positive experience of the recruitment process. He was initially offered an interview date that clashed with a pre-booked hospital appointment and the college adjusted this to enable him to attend both. However, when he arrived for interview there was no accessible parking space designated for disabled visitors.

Following the interview he received early notification of his success although nothing was done at this stage to find out if the specification of the job he had applied for would need to be adjusted in any way before he arrived.

Ed has needed classroom assistance especially in board work and this has been supported since he started his employment. He was also given a designated parking place near to his teaching area. Due to the facilities at the college Ed was able to come in and adapt to his environment – it wasn't necessary for adaptations to be made to his working facilities. Through the recent introduction of interactive white boards and other IT interventions Ed is now requiring less assistance to enable his teaching.

Ed has already been promoted from the initial role of tutor to that of personal tutor and he would like to continue his career in the college, although progress on this in the last three years has been on hold because of health issues. Ed is an international athlete and he believes that he will be able to contribute to the sports life of the college in future, as he has a number of excellent contacts.

How can I find out more information?

The DRC runs a helpline on 08457 622633, and provides information on employment aspects on its website (www.drc-gb.org/employment). You will also find further information on the Disability Equality Duty on the DRC website www.dotheduty.org. The DRC will be issuing guidance on meeting the employment duties.

The website of the Employers' Forum on Disability (www.employers-forum.co.uk) has further information that you might find helpful.

Conclusion

The legislation provides an opportunity to tackle and remove barriers and promote disability equality in recruitment and selection processes, in staff development opportunities, and in all employment activities in your organisation.

We have made great progress in improving disability equality and we have much to celebrate. Although we still have a long way to go on our journey towards disability equality, our journey is more advanced for our disabled learners than it is for our disabled staff. This is, no doubt, related to the introduction of new legal rights for disabled learners with the advent of DDA 1995 Part 4, which we have worked hard to implement. It will be important for us to ensure that we now 'catch up' on our progress towards disability equality for our disabled staff, and continue to move forward.

The legislation provides us with an opportunity to do this. The new legal requirements will lead to improved choices and opportunities, and will help close the gap between the expectations, experiences, education, qualifications and employment of disabled and non-disabled people.

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Appendix: **Different types of information to gather and use to improve disability equality for staff**

Information to consider when meeting the gathering information requirement in relation to disabled staff

a. Recruitment and selection:
   - applications
   - selection for interview
   - appointments
   - type of contract (eg permanent, temporary, full-time, fixed-term, part-time, hourly paid)
   - type of job and salary levels
   - views of disabled applicants, both those who are appointed and those who are not.

b. Progress:
   - appraisals and performance reviews
   - promotion
   - career development, eg information on who applies for training, who is offered training, type of training attended, levels of satisfaction with training, extent to which access requirements are met
   - bullying and harassment
   - complaints
   - grievance
   - competency
   - disciplinary
   - levels of satisfaction
   - views of staff – consider interviews, focus groups, forums, unions, etc
   - staff retention rates
   - cessation of employment, reasons for leaving, eg redundancy, resignations, end of contract, dismissal
   - exit interviews
   - improvements in the quality of services such as the prevalence of adjustments, for example, of accessible toilets, loop systems and alternatives to telephone for contacting the organisation.

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Skill
National Bureau for Students with Disabilities