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Retaining and developing disabled staff in the lifelong learning sector

Disability Equality Implementation Group supported
by Lifelong Learning UK

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Skills for Learning Professionals

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Chapter 1:
About this guide

Introduction and context

This guide, and the accompanying guides, *Staff Disability Disclosure in the Lifelong Learning Sector* (LLUK 2009) and *Attracting Disabled People to Employment in the Lifelong Learning Sector* (LLUK 2009), follow on from the final and summary reports of the Commission for Disabled Staff in Lifelong Learning (NIACE 2008 a and b). The guides complement each other in promoting disability equality. The Disability Equality Implementation Group (DEIG), consisting of partners from throughout the lifelong learning sector, was established to take forward the Commission's recommendations. The DEIG was set up and as of March 2011 continues to be coordinated by Lifelong Learning UK, the sector skills council responsible for the professional development of staff in further and higher education. The guides are one strand of a strategy that included a short campaign to encourage lifelong learning organisations to commit themselves to disability equality, a research programme and a programme of disability equality workshops.

The lifelong learning sector

In this guide, lifelong learning is interpreted as the learning and skills sector and higher education sector. The learning and skills sector consists of further education and 6th form colleges, local authority adult and community learning and strands within that such as family learning and 'safeguarded' learning, special designated institutions such as the Workers' Educational Association, work based learning providers and learning providers in the voluntary and community sector. The higher education sector includes universities, university colleges and higher education campuses associated with universities. The guide covers all the UK nations. We refer to 'learners' as the usual term in colleges in the learning and skills sector, and 'students' as the usual term in higher education institutions.

Who this guide is for

This guide has been developed to support and advance the interests of disabled staff in lifelong learning. Directors and managers will find this guide useful in making strategic decisions relating to the employment, retention and development of staff in the lifelong learning sector. Human resources directors and staff development managers may find this guide helpful in workforce planning. It will also be of interest to those with strategic or operational responsibility for advancing equality and diversity.

Line management and occupational health staff will also find this guide helpful, such as in arranging reasonable adjustments. Disabled staff groups and trade union representatives will find this guide of value in actively promoting disability equality practice. It will have some interest and ideas for all organisations in every constituency across the lifelong learning sector. It emphasises the need for equity and fairness within institutions and for the whole range of staff – from managers, academics and teaching staff to technical, catering, support, administrative and premises staff.

A note on language

In the guide we use the language of 'impairment' and 'disability' as defined by the social model of disability. It is also the preferred language of the Disabled People's Movement. Whilst people may have visible or hidden

physical, sensory or cognitive impairments, the term disability is focused on the outcome of the interaction between people with impairments, and the barriers they may face. In UK legislative language however the term 'disability' is used to mean what the social model defines as 'impairment', so it occurs in this way in the guide when direct quotations from either Acts of Parliament, Codes of Practice or related guidance are included, or when other documents are quoted which follow legislative language. We recognise that staff may have concerns about disclosing some types of impairments, such as mental health difficulties. Our use of language (in terms of 'impairment' and 'disability', and organisational definitions) exactly mirrors that of the final and summary reports of the Commission for Disabled Staff in Lifelong Learning (2008 a pages x-xii and 2008 b pages 4-6).

Progress to disability equality

The DEIG's vision is for a lifelong learning sector where:

- all organisations prioritise a positive change in culture and attitudes towards disabled people

- disabled staff are represented at all levels of the workforce

- positive steps are taken to address any under-representation and remove any barriers to progression and development

- disabled people are treated with dignity and respect, and systematic action is taken to eliminate all forms of discrimination and harassment.

In recent years, the lifelong learning sector has made great progress in promoting equality for disabled learners and students, giving many of them the skills and qualifications they need to succeed. However as the Commission for Disabled Staff in Lifelong Learning (NIACE 2008 a and b) found, less progress has been made when it comes to our disabled staff. This guide is intended to support the lifelong learning sector to make the reasonable adjustments disabled employees require, and take anticipatory measures required by recent legislation. A focus on retaining and developing disabled staff will further advance disability equality, and indeed equality across all the 'protected characteristics' identified in The Equality Act (2010) – age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Lifelong learning sector organisations play a key role in giving disabled learners and students the skills and qualifications they need to succeed. They can also play their part in providing a good working environment and development opportunities for disabled staff. In this way, they will retain skilled and experienced staff, enhance their reputations as progressive and enlightened employers and achieve dignity and respect for everyone associated with them.

Organisation of the guide

The guide deals with disability discrimination legislation in a general way relevant to retaining and developing disabled staff in the lifelong learning sector. It assumes some prior level of knowledge in this area and disability equality in general. Boxes in the text contain examples of good practice based on but adapted from real examples from the sector. Although there has been progress, some of the examples and case studies show good practice that is not widespread. Organisations in the sector still collectively have a long way to go to be more thoroughly proactive in addressing the reasonable adjustments disabled staff require and implementing anticipatory measures that go beyond legal compliance.

At the end of each chapter is a 'traffic light' activity and space for developing action points. These action points can be consolidated into a strategic action plan using the suggested template at the end of Chapter 6. There is a 'References and bibliography' section at the end. Because the guide has an interactive approach, it will be possible to judge how well your organisation is doing in retaining and developing disabled staff and what you need to do, if anything, to improve in these areas.

Chapter 2:
Retaining and developing disabled staff: background

Introduction

Through the use of evidence this chapter examines the general and sector-specific challenges facing disabled staff. It presents the case for retaining and developing disabled staff and gives an overview of the current legal position. It summarises the relevant findings of the Commission for Disabled Staff in Lifelong Learning (NIACE 2008).

Challenges facing disabled staff

Although the emphasis of this guide is on positive aspects of achieving disability equality and an aspirational approach to achieving it, it is important to be aware of the disadvantages disabled people face. There has been some progress in disability equality and considerable progress in specific areas, however evidence demonstrates that disabled people continue to be challenged by the barriers created by the structures within society. Disabled people are often expected to make adjustments and extra efforts as a result of their impairments rather than having adjustments made by others. In terms of employment, there is a time-lag between the availability of the latest statistics and the current position at any given time, and different agencies present statistics in different ways and with different emphases. However, the general trends are clear:

- disabled people are much less likely to be employed than non-disabled people

- they are much less likely to have qualifications

- their average pay is lower

- some groups of disabled people, especially those with mental health conditions, are even more disadvantaged than some other groups.

For further information about the disadvantages disabled people face in all spheres of their lives see Prime Minister's Strategy Unit (2005), Williams et al. (2008), Roulstone et al. (2003) and Sayce and RADAR (2010). Whether the economy is growing, stagnating or in recession, disabled people are disproportionately disadvantaged.

According to How fair is Britain?, the first triennial review of the Equality and Human Rights Commission (EHRC 2010), the employment rate for disabled people without qualifications halved between the mid-1970s and the early 2000s, and employment issues are particularly significant for disabled people, who accounted for over half of all employment calls to the Equality and Human Rights Commission helpline in 2008/09. Disabled people in their 20s are twice as likely not to be in employment, education or training (NEET) as non-disabled people in their 20s. People with a disability or long term illness are over twice as likely to report bullying or harassment in the workplace compared to non-disabled people.

In the learning and skills sector, according to Lifelong Learning UK (2009 c page 37)

> 'People with declared disabilities are under-represented in the further education college workforce: 2.7 per cent of staff in further education colleges had a declared disability in 2007/08. This was significantly lower than the average disability status of the general population in England of 17.9 per cent (ONS, 2009) and the general further education learner population which in the same year registered 14.4 per cent (LSC, 2008).'

There is increasing interest not just in the recruitment and employment of disabled people but in career progression and the ability of disabled people to achieve promotion to senior posts.

Within the higher education sector, representation of disabled staff continues to be lower at higher academic grades than at lower grades. 2.4 per cent of professors were declared disabled. (ECU 2010 page 47).

If we consider this in the context that 11.6 per cent of the working age population is disabled (ECU 2008 page 12) and 17.9 per cent of the general population (see page 5 above), then this level of declared impairment by senior staff is low.

Further evidence about disabled people and employment, including in the lifelong learning sector, can be found in Chapter 4 of the publication *Attracting disabled people to employment in the lifelong learning sector* (LLUK 2009 a). The employment challenges facing disabled people in general and the continuing low numbers of disabled staff who have declared impairment in the lifelong learning sector reinforce the importance of effective strategies to retain and develop these staff.

The outlook for the lifelong learning sector is not completely negative; there are institutions both in the learning and skills sector and in higher education that do well for their disabled staff and as a result achieve high levels of disclosure of impairment.

Arguments for retaining and developing disabled staff

Government policy is strongly focused on employability and skills. An important argument for increasing and encouraging the employment of disabled people, and retaining and developing them as staff, is that the UK, as an entity, cannot afford to continue to do otherwise. Welfare benefits and related costs provide a compelling reason to remove barriers and facilitate the continued support, employment and development of disabled people. Another argument relates to social cohesion. Disabled people constitute a large and largely invisible minority for whom employment helps integration and combats social isolation.

For employers, the 'business case' for retaining and developing disabled people is persuasive. The Employers' Forum on Disability makes this point in a number of its publications. For the Employers' Forum on Disability, the benefits of effective disability management include:

- Increasing the pool of available talent in recruitment drives
- Bringing a more diverse range of experiences and skills to your workplace
- Improving your reputation with your customers, employees and key stakeholder groups
- Making efficiency gains, including more responsive management of all employees and improved retention of employees who become disabled
- Better understanding of disabled customers and clients and improving your ability to respond to all customers as individuals
- Avoiding the costs and risks to reputation of adverse publicity associated with litigation.

(Employers' Forum on Disability a page 3 undated London)

Though the business case is considered important, some disabled people themselves do wonder why they need a business case to have parity of esteem with and the same fair treatment as non-disabled people. It is hard to argue against the assertion that the moral, human rights case for employing, retaining and developing disabled people is the most important one. Organisations that dismantle the barriers facing disabled staff to allow equal access and secure full inclusion will be doing what is right, but will also flourish and grow in confidence as a result. Their diversity will help them respond to the diversity of their learners in a flexible, creative and profitable way.

The legal position

Disabled people do not just have to depend on arguments and statistics to have access to and be retained in employment. Comprehensive legal advice is beyond the scope of the guide, but this section deals with general trends and directions relevant to retaining and developing disabled staff. Recent legislation has consolidated and in some cases built on previous legislation to do not just with race, gender and disability but additional identified 'protected characteristics' (see page 5).

Key legal points in terms of employment and disabled people[1]

The Equality Act 2010 has harmonised and strengthened existing equality legislation, including disability equality. Disabled staff have the right not to be discriminated against whilst at work and are protected through the Act against harassment and discrimination. There are different types of discrimination and it is important to understand the differences between these.

The Act gives a new definition of direct discrimination; this occurs when a person treats one person less favourably than they would another because of a protected characteristic, such as disability.

If something at work has a more severe impact on a disabled employee and other disabled staff because of disability then that is indirect discrimination. Indirect discrimination occurs when a provision, criterion or practice appears to be neutral, but its impact particularly disadvantages people with a protected characteristic, unless the person applying the provision can justify it as a proportionate means of achieving a legitimate aim. Ultimately, if tested, it will be for a court of law or tribunal to determine what is justifiable.

Something can only be 'objectively justified' when it is a 'proportionate' means of achieving a legitimate aim – in other words that the way of achieving the aim is 'appropriate and necessary'.

The provision for disability in the Act creates a new type of discrimination – discrimination arising from disability. The Equality Act (2010) states that it is discriminatory to treat a disabled person in a particular way that, because of their disability, amounts to treating them unfavourably when the treatment cannot be shown to be justified. For this type of discrimination to occur, the employer, or other person, must know, or could reasonably be expected to know, that the person has a disability. Discrimination arising from disability can occur if, for example, a student with diabetes, carrying medication related to their condition, is refused entry by the Higher Education Institution to an event with a no drugs policy – the Higher Education Institution may be discriminating against the student unless the treatment can be justified. 'Discrimination by association' and 'discrimination by perception' can be experienced by disabled people but also by people with other protected characteristics.

Disabled people also benefit from legal exceptions. The law allows employers to take voluntary positive action for any group of people with protected characteristics including disabled people, but only disabled people can be treated more favourably by employers than non-disabled people.

[1] Based principally on guidance issued by the Equality and Human Rights Commission (EHRC 2010).

Like people with other protected characteristics, disabled people can hold their employers responsible for discrimination, victimisation and harassment by another employee or 'employer's agent', whether or not the employer knew about or approved of such actions. There are caveats and qualifications, as there are in most aspects of equality law applied to people with protected characteristics. The key point is that employers can reduce the risk of unlawful actions by their staff and agents through training and development and by other means. Demonstrating that procedures are in place can shift responsibility from employer to employee.

The Act also imposes the reasonable adjustments duty in respect of disabled employees and applicants. Employers will need to ensure that their recruitment and employment policies and practices do not discriminate against existing or prospective staff members on grounds of disability. They will also need to ensure that adjustments are made to the workplace to ensure that disabled members of staff are not put at a substantial disadvantage in comparison to colleagues who are not disabled.

Specifically in relation to disabled staff, legislation identifies three requirements that are part of an employer's duty to make reasonable adjustments to remove barriers that put such staff at a 'substantial disadvantage' (i.e., one that is not minor or trivial). The first is about changing the way things are done (i.e. a provision, a criterion or a practice). An example might be changing a rule or policy that disadvantages disabled staff. The second is about removing barriers caused by the physical environment. The third is about providing extra equipment ('auxiliary aids') or extra help by someone else ('auxiliary service'). Disabled staff may be at a substantial disadvantage because of a policy, a physical feature or lack of auxiliary equipment or service.

Effective and practicable adjustments for disabled workers often involve little or no cost or disruption and are therefore very likely to be reasonable for an employer to have to make. Even if an adjustment has a significant cost associated with it, it may still be cost-effective in overall terms – for example, compared with the costs of recruiting and training a new member of staff – and so may still be a reasonable adjustment to have to make.

An area that can be contentious is what constitutes a reasonable adjustment. The Equality Act 2010 does not specify any particular factors that should be taken into account. What is a reasonable step for an employer to take will depend on all the circumstances of each individual case.

The following are some of the factors which an employer might wish to take into account when deciding whether a particular adjustment would be a reasonable step to take:

• Whether the adjustment would be effective in preventing substantial disadvantage

• The practicability of the adjustment

• The financial and other costs of making the adjustment and the extent of any disruption caused

• The extent of the employer's financial or other resources

• The type and size of the employer

• The availability to the employer of financial or other assistance to help make an adjustment (such as through Access to Work).

Legislation related to disability and indeed all the protected characteristics will always be subject to change and development. But awareness of the law by employers and disabled staff themselves can assist in the process and practice of retaining and developing disabled staff. Legislative aspects are further explored in other contexts in the guide.

Case study

A university lecturer who was increasingly affected by eyesight problems approached his manager to discuss the issue. Neither lecturer nor manager knew about possible options, because the situation was new to both of them. The lecturer felt fearful and anxious about the prospect of facing a different and unexpected future.

The lecturer reported: 'After the initial meeting, nothing seemed to happen and the situation was getting worse. There was no urgency to act. I felt a bit powerless, and I started looking at my employment rights. I was very surprised at the legal protection that seemed to be available to me. With this information, I was able to put forward an informed proposal to the university. Things speeded up after that, and I got the various adjustments that I needed. Interestingly, I now realise that there were other avenues I could have used – the equality and diversity manager, human resources, a disabled staff support group etc. But I had never had any need to make these connections before.'

Disabled staff: the findings of the Commission for Disabled Staff in Lifelong Learning

The general inequity and challenges faced by potential and actual disabled staff in the working population applies to disabled staff in lifelong learning. The Commission for Disabled Staff in Lifelong Learning produced a summary of key messages, outcomes required and recommendations for all organisations in the lifelong learning sector (2008 b pages 17-25). Among them was the general statement, based on the evidence, that

> 'There has been a systemic failure in public policy to address the needs and requirements of disabled staff throughout the lifelong learning sector to the extent that there is widespread institutional discrimination…'

(Ibid. 2008 b page 17)

The key messages, outcomes required and recommendations derived from evidence are gathered within the following themes:

- disclosure
- mental health
- recruitment and employment of disabled staff
- support for disabled staff at work
- learning and training opportunities
- Access to Work
- workplace and workforce
- attitudes and disabled staff
- employment equity and working practices
- disability leave and associated issues
- the 'agency' of disabled staff in promoting disability equality
- disabled staff as role models.

Strategic planning, legal compliance, culture change and continuing professional development for disability equality could be based on the messages from the report. Taking such an approach would begin to address the issues and challenges facing disabled staff. Chapter 6 explores this in more detail.

With this guide focusing specifically on retention and development, it is important to mention that the outcomes within the Commission's report highlighted calls for '[m]ore disabled staff… working in the lifelong learning sector…' and 'funds to support disabled staff proportionately equal to those supporting disabled learners and students, addressing the obvious injustice that two groups supported by the same organisation are treated so differently' (NIACE 2008 b page 18). In terms of developing disabled staff, among the required outcomes were calls for 'targets to secure substantially more disabled staff in senior and strategic positions', identification and encouragement of disabled staff to attend and complete leadership and management programmes (NIACE 2008 b page 18).

Relevant to these outcomes, the Commission recommended that learning organisations should embrace the (then applicable) Disability Equality Duty through:

• developing effective involvement strategies for disabled staff

• sound policies and practices on disability absence and disclosure

• better promotion of disability equality in staff training for part-time and full-time staff

• financing reasonable adjustments centrally so no section, department or faculty is disadvantaged, financially or otherwise, in meeting disability equality responsibilities

• developing support for disabled staff, such as mentoring and work-shadowing, and a disability equality component in appraisal schemes – to contribute to raising the achievement of disabled staff.

(Adapted from Commission for Disabled Staff 2008 b page 20)

Activity 1: Retaining and developing disabled staff: background

Use the 'traffic lights' options to assess your position in this and subsequent activities at the end of each chapter.

Broadly speaking, red can indicate that you have not made any progress and need to, amber that you have made some progress but there is some way to go, and green that you are in a strong position (though of course improvements are always possible). You may believe that some statements are not appropriate to your organisation. What you decide in each activity throughout the guide will help you plan a strategy for retaining and developing disabled staff (see Chapter 7).

	Position statement	Red	Amber	Green	Evidence/ comments	Gaps in provision and actions required
1	Our organisation has developed an evidence base to assist us in understanding the challenges facing our disabled staff					
2	Our organisation has developed a strategic approach to retaining and developing disabled staff					
3	We have developed an understanding of the implications of current equality legislation in supporting disability equality					
4	We use the findings and recommendations of the Commission for Disabled Staff in Lifelong Learning to inform our planning in this area					
5	We have also identified other sources of guidance that can help us advance equality for disabled staff					

Chapter 3:
Developing an inclusive environment for disabled staff

Introduction

It is important to consider and explore how organisations within the lifelong learning sector can create inclusive environments that support the retention and effective development of disabled staff. This chapter considers strategies and support used by disabled staff and the messages deriving from these. It examines the conditions in which messages will be listened to and acted on, and looks at models to use for securing the involvement of, and partnership with, disabled staff to achieve progress. It explores what the fundamentals of disability equality are through the notions of 'a circle of inclusion' and what constitutes 'core knowledge' of disability equality. The importance of understanding and adopting suitable models of impairment as a guide to action is considered.

Strategies and support used by disabled staff

An important aspect of being able to retain and develop disabled staff is having a good understanding of what helps them manage and prosper in the workplace. Two general studies set out the experiences of disabled staff, and the first part of this chapter draws out conclusions from them.

One study by Roulstone et al. (2003) explored the employment strategies and sources of support of disabled people in terms of 'thriving and surviving at work'. Strategies were defined as emanating from individual disabled people, whereas support was external. Through feedback from respondents, the study identified a range of strategies used by disabled staff:

- being assertive and direct
- being open
- seeking external support
- using information and communication technologies (ICT)
- managing personal information
- seeking the validation of other disabled people
- flexible working
- 'getting legal' (adopting formal or legal strategies)
- personal development
- using disability experience to gain supportive work.

Roulstone et al. (2003 page 9)

The research, to summarise, presented rich direct testimony exemplifying disabled staff experiences. Strategies varied from complete openness at one end of the spectrum to caution at the other. One particular strategy – 'getting legal' – is worth highlighting. It did not seem to be an often used strategy at the time of the research, and was used in one instance as a fallback position in case other strategies did not work. As legislation develops, 'getting legal' may become more prominent as disabled people become more aware of their rights.

The research identified the risks of adopting strategies at particular times and in particular work contexts. Disabled workers could use a single strategy or a combination, or adopt strategies gradually. Some strategies 'kept the peace' but did not result in quick progress or improvement; others achieved progress but at a cost within the working environment. Directness and openness were the most commonly mentioned.

External support (as opposed to internally-derived strategies), was classified as both informal and formal. Respondents identified the following types of informal support:

- moral and financial (mainly from family and friends)
- empathy and accepting difference (mainly in organisations familiar with impairment)
- 'give and take' (informal reciprocal arrangements with colleagues providing mutual support).

Formal support consisted of:

- Access to Work
- flexible working
- welfare department support
- other sources of support (e.g. the Shaw Trust)
- job redesign or reallocation.

The research noted the often high emotional rather than financial cost to disabled staff in getting the adjustments they needed to do their jobs, and often the complex mixture of strategies and formal and informal support needed for them to work efficiently and effectively.

Another study, *Doing seniority differently* (Sayce/RADAR 2010), focused on disabled 'high flyers'. This research also reported personal, individual strategies that disabled 'high flyers' identified and external support that helped them on their way. Strategies were highly proactive and included 'getting stuck in changing organisations for the better, educating colleagues, [and] not waiting passively for access or cultural improvements… Successful strategies most commonly mentioned were to present solutions to the organisation, to focus on strengths not just needs and to create networking opportunities' (Sayce/Radar 2010 page 10). Many respondents in this research 'felt that the experience of disability could be an asset but also that it was only one part of their life and identity – they 'wore their disability lightly', as one put it' (Sayce/Radar 2010 page 10). Respondents focused on success rather than perceived stigma and fear of stigma. Informal support came in some instances from a small group of close professional colleagues familiar with people's impairments.

Respondents in this research grappled with the dilemma of whether or not to declare their impairments, and to whom to declare them. A substantial number with non-apparent impairments did choose to keep them to themselves, fearing the consequences of being open or judging when and how they could be open – especially respondents with mental health conditions.

Messages from disabled staff

Both studies had very clear messages deriving from the research into personal strategies and external support for disabled staff. Roulstone et al (2003 pages 30-33) presented lessons for colleagues of disabled staff and employers and managers (amongst other 'stakeholders'). Colleagues should not make assumptions about disabled workers, whose impairments and resulting barriers are very different. Mandatory disability equality training is important. Colleagues should be supportive of disabled colleagues 'but not overbearing'. Employers and managers should not see disabled people as a 'special' case for support but they do need to ask disabled workers if their needs are being met, and to be aware of and allow flexible ways of working. They need to encourage mutual respect (an issue of organisational culture) and be well informed about support options and sources.

Addressing not just employment but career progression and development (vital to motivating and retaining disabled staff), the Sayce/RADAR (2010) research indicated that barriers to advancement should be removed and that employers should overcome aversion to risk in appointing disabled people. They should welcome and encourage different career and work patterns and encourage 'open conversations' about impairment. 'Best management practice' (applicable to all staff and not just disabled people) will help whole organisations. In particular, genuine behavioural change is essential.

Case study

A deaf manager in a further education college experienced a sharp deterioration in her hearing after she turned 50. As part of her role is networking at external meetings, and this is valued by her senior management team as key in being an effective manager, she realised that she was at a rapidly increasing disadvantage.

'I could no longer go into a crowded meeting or conference and do what had always been difficult but what I had managed. It was not just a hearing thing. It became a psychological block. I was tired of pretending to hear. Then I thought that it would affect any career progression I was aiming for – if networking in this way was valued and I could not do it… I began to think that my employers should not disqualify me because of my deafness, and we started to explore how things could be arranged so that work would be done differently. We are still at this stage, and it's partly about educating other people in different ways of working.'

Listening and acting on the perspectives of disabled staff

Awareness of and knowledge about the strategies used by disabled staff and the kinds of support they receive are not enough to make working environments that disabled staff want to stay and develop themselves in.

Achieving greater disability equality requires a whole organisation approach, with all staff acting on a shared understanding to work towards an environment where disabled staff feel confident in their own identity. Figure 1 is an adaptation of the 'Model of Accessibility Maturity' in a TechDis information sheet (http://www. jisctechdis.ac.uk/assets/Documents/investinyou/JISC_TechDis_SED_Leaflet.pdf accessed 27 October 2010) and shows the stages to embedding disability equality and the importance of partnership.

Figure 1: Embedding disability equality – levels of disabled employee engagement

Luck: 'With luck we won't have any disabled staff to have to cope with.'

⬇

Tokenism: 'Look at our accessibility policy to help you' (if you can find it)

⬇

Specialism: 'Do you have an impairment? Here is the support we can offer you if you declare it.'

⬇

Adherence to standards: 'We are signed up to 'Two ticks positive' and 'Mindful employer.'

⬇

Ownership: 'All staff, disabled and non-disabled, specialist and non-specialist, are trained to be flexible, creative and adaptable when dealing with barriers arising from impairments.'

⬇

Partnership: 'Non-disabled and disabled staff, including senior managers, work consistently and diligently together to discuss, develop and implement first class disability equality and inclusion practice.'

An alternative framework, equally useful, and which also emphasises the importance of partnership, is an adaptation of Arnstein's 'ladder of participation' (which is applied to community involvement), shown in Figure 2. Stages 1-5 have varying degrees of prevalence in the learning and skills sector; stage 6 is much rarer.

Figure 2: Ladder of participation (adapted from Arnstein)

Stage	Type of involvement	Extent of involvement
6	Partnership	Degree of employee power
5	Placation	Degrees of tokenism
4	Consultation	
3	Informing	
2	Therapy	Non-participation
1	Manipulation	

Case study

A special designated institution has a lively and active disabled staff group run by trade union representatives. It has a good relationship with the senior member of staff responsible for equality and diversity. There is strong two-way communication in place, which means that the institution does not simply ask the group for advice or consult them over changes and developments but involves them at an early stage. It is recognised as a partnership approach. The involvement is not simply on matters to do with impairment but more generally. The input of the disabled staff group has highlighted issues that would otherwise have been overlooked, for example in the design of a new building. The relationship between the group and the management of the institution has led to an open and receptive organisational culture.

Shared understanding of disability equality

In moving towards a position where action on disability equality is effectively taken and progress made it is important to develop a shared understanding. Shared understanding will be a basis on which disabled staff will want to continue, and enjoy, working in a receptive and supportive organisation, and see that they can develop their skills, experience and careers. It is the basis of the 'partnership' stages of Figure 1 and Figure 2.

However, it can be challenging to define and encapsulate the breadth of what employers and staff need to know about disability equality, and apart from what can be called 'core knowledge' different people will need to know different things. Strategic management teams and human resources personnel should try to develop a good understanding of equality legislation. An organisation should ensure that any policies relating to bullying and harassment are well promoted to staff and learners/students.

Circle of inclusion

Any acquisition of knowledge about disability equality should involve consideration of how to include everyone. A phrase like 'exalted circle' might once have been used to describe non-disabled people. Although there has been progress, the challenge is still to widen the 'exalted circle' so that everyone, including disabled people, is within it. Then it is no longer an 'exalted' circle but a circle of inclusion. Figure 3 shows how this might be done. Including more people, especially disabled people, is not about 'lowering the bar', which suggests compromising on 'standards'.

Figure 3: the 'circle of inclusion'

'Exalted' circle, consisting of non-disabled people

Process of inclusion of disabled people achieved through partnership (figure 1), and via e.g.,
Braille signage
Different working practices
(e.g. no 'progression through informal networks')
Electronic note-takers,
BSL signers, palantypists
Full physical access to buildings
Dyslexia-friendly practices
Impairment-related absence
Other 'reasonable adjustments'

Circle of inclusion accommodating disabled staff with a range of physical, sensory and cognitive impairments, mental health difficulties, long-term health conditions, learning impairments, neurodiversity and learning differences such as dyslexia or dyspraxia **achieved in partnership**
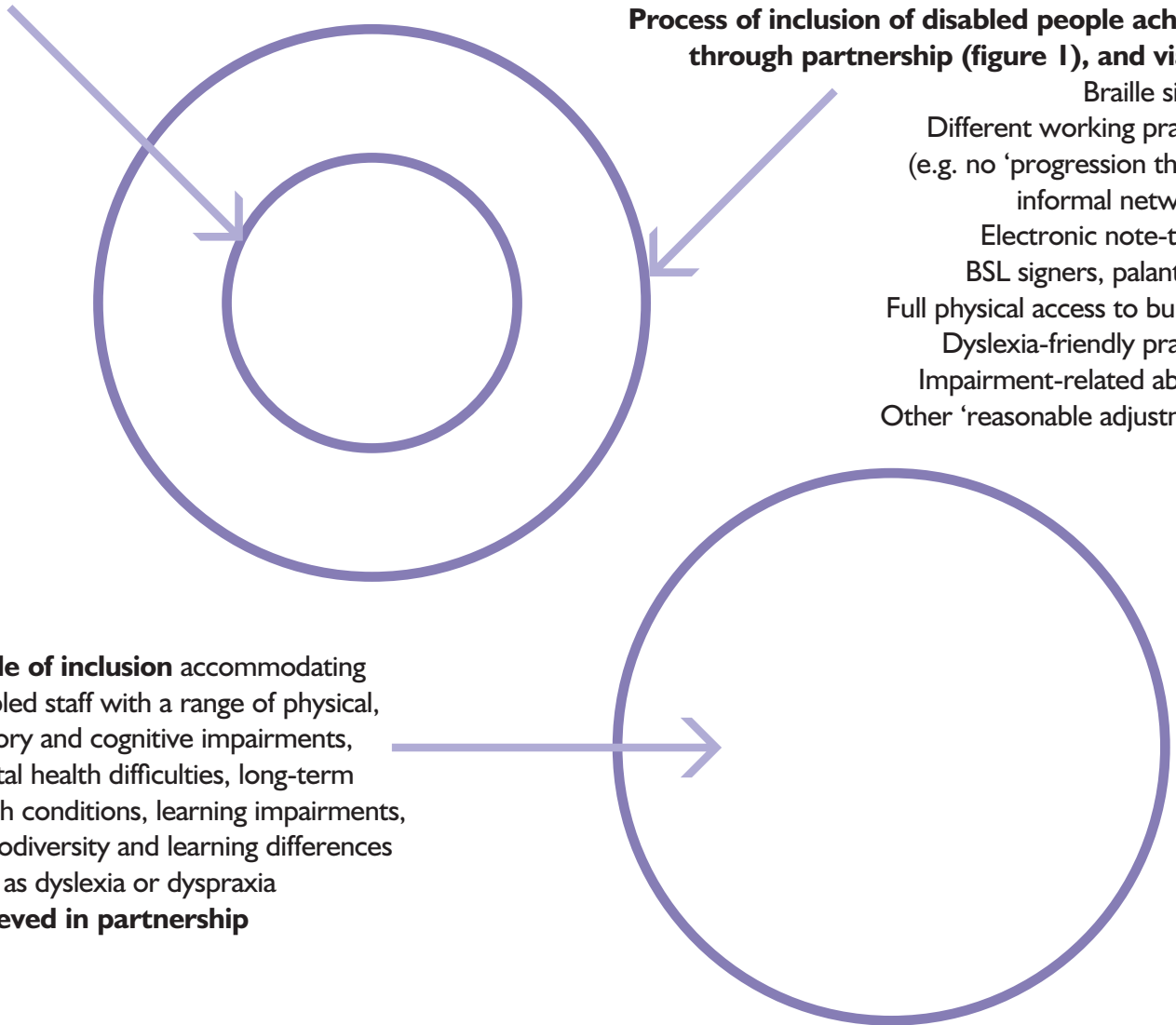
Activity 2: Developing an inclusive environment for disabled staff

	Position statement	Red	Amber	Green	Evidence/ comments	Gaps in provision and actions required
1	Our organisation understands and listens to the views and experiences of its disabled staff					
2	We work in partnership with our disabled staff to secure their full inclusion					
3	We (disabled and non-disabled staff) have a shared understanding of disability equality through 'core knowledge'					
4	We focus on the social model as a basis for strategies to retain and develop our disabled staff					

Chapter 4:
Creating the right environment for disabled staff – practicalities

Introduction

Ensuring all staff are comfortable, knowledgeable and confident about disability equality provides the basis for developing policies and interventions that will achieve a more inclusive workplace. Areas in which organisations could begin to take action include:

- anticipating and managing reasonable adjustments

- developing effective induction, support and review systems for all staff that include disability equality

- achieving fair and, if appropriate, favourable treatment of disabled staff

- developing effective anti-bullying and anti-harassment policies and procedures

- effective management of impairment

- improving management of mental wellbeing

- impairment and sickness absence

- using health and safety requirements positively (i.e. to enable disabled staff to be included rather than exclude them)

- developing appropriate and accessible continuing professional development for disabled staff

- taking an inclusive approach to 'succession-planning' and 'talent-spotting' initiatives.

Anticipating and managing reasonable adjustments (see also 'The legal position in Chapter 2 above)

The anticipation, resourcing and management of reasonable adjustments are a key element in retaining disabled staff. With reasonable adjustments in place, disabled staff will be able to do their jobs effectively and efficiently. They will have access to the same opportunities as other staff and will be much more likely to achieve the job satisfaction that will allow organisations to retain and develop them.

Employers have a duty to make reasonable adjustments only when they know or could reasonably be expected to know that disabled staff or potential staff are at a substantial disadvantage. Employers must make anticipatory adjustments for disabled people they might employ in future. For example, renewing telephony equipment to have sufficient adapted phones for potential deaf or blind staff, or physical access throughout their premises, sends a very positive message to disabled and non-disabled staff alike. The Commission for Disabled Staff in Lifelong Learning (2008) reported that disabled people are more likely to be aware of and more likely to want to work for forward-thinking and inclusive employers. The Equality Challenge Unit (2010 b) has provided comprehensive guidance on reasonable adjustments in higher education which will be of use to the whole of the lifelong learning sector.

Case study

A newly qualified disabled lecturer reported:

'I knew that this college would be a good place to work. When I was doing my teacher training year and putting in applications, I'd check the websites of colleges before I applied. This college has a good equality and diversity policy which I could easily find on the website. It welcomes applications from disabled people because it has Two Ticks Positive and Mindful Employer. I can tell you, not many other colleges seemed to be so on the ball.

Human resources had prepared well for my interview. My experience as an employee has been equally good, right from induction. The adjustments I needed were put in place before I came. I have had lots of opportunities for development and have been encouraged to think about promotion. Everyone here is really clued [up] about equality, and not just to do with disability. I think it will be hard to leave.'

The Employers' Forum on Disability (undated a page 6), putting forward the benefits of an anticipatory approach, also argues that it is cost effective to plan ahead, especially given the incidence of impairment in the working age population.

A huge range of 'reasonable adjustments' are possible. The Employers' Forum on Disability (undated a page 7) lists the following:

- making adjustments to premises
- modifying procedures for testing or assessment
- giving or arranging for training or mentoring (including for non-disabled staff)
- acquiring or modifying equipment
- modifying instructions or reference manuals
- providing a reader, electronic note-taker or interpreter
- providing supervision or other support
- allocating some of a disabled person's duties to another person
- allowing absence during working hours for rehabilitation, assessment or treatment
- altering working hours
- assigning a disabled person to a different workplace
- transferring a disabled person to fill an existing vacancy.

All these possible adjustments fall broadly into three categories: changing the way things are done; removing physical barriers; or providing auxiliary help or services. These reflect the categories that appear in recent legislation.

Disabled staff, especially if they have acquired their impairments, do not necessarily know the best available reasonable adjustments to help them do their jobs effectively. They do not have to suggest possible adjustments; the onus is on the employer. However, joint problem solving and partnership between employer and employee is most likely to achieve a successful outcome. A sensitive, informed and proactive approach by an employer, in the context of a supportive organisational culture, will make a disabled employee feel valued and committed to the organisation. Employers must also 'take reasonable steps' to find out about staff impairments. Evidence may emerge of an acquired impairment – for example high absence levels, lack of punctuality, mood change, significant weight gain or loss. Once something is identified, the appropriate adjustments can follow. Retention of disabled staff, including those who acquire impairments, will be improved by a sensitive, problem-solving approach in this situation. In the case of congenital or long-standing impairments, employers will value the day-to-day experience and expert knowledge of their disabled staff about what reasonable adjustments are required. If they listen and act, they will be appreciated as good employers.

Managing impairment

Effective impairment management is particularly important when staff acquire long-term health conditions such as cancer, diabetes and HIV. Diagnoses of such conditions are frightening and challenging. Good employers establish a policy framework for managing impairment, and make sure that different policies, processes and procedures are in alignment and not contradictory. The Employers' Forum on Disability (undated b page 11) reports that there are useful models of disability management and operation in Australia and Canada. The National Institute of Disability Management and Research (NIDMAR) suggests, according to the Employers' Forum on Disability, that successful disability management programmes can be judged by looking for:

- an increased rate of successful return after long-term absence

- a reduction of impairment costs

- improvements in employee morale

- increased productivity.

Effective impairment management is likely to involve a range of people including a co-ordinator, line manager, and possibly an occupational health specialist, a human resources manager, a heath and safety officer, a trade union representative etc. A disabled employee will appreciate this management if it is done in the spirit of support.

Impairment and sickness absence

For all staff, sickness absence that requires specific management, according to the Employers' Forum on Disability (undated c pages 13-15), consists of long-term sickness absence of known length, long-term sickness absence of unknown length and periodic sickness absences. For disabled staff a permitted higher level of absence could constitute a reasonable adjustment, and failure to provide it could constitute less favourable treatment on the grounds of disability.

Classifying and recording sickness absence in different ways will encourage disabled staff that they will not be penalised for their impairments. Among the classifications might be 'disability related absence' or 'impairment leave'. This has no legal status, but distinguishes between absence because of sickness and absence for rehabilitation, treatment for an acquired impairment or long term health condition. In most cases there will be a fixed end date for disability related absence that will be known about in advance. This may also be suitable for shorter absences needed on a regular basis, such as hospital appointments. Disability related absence should not have an impact on a disabled employee's entitlement to sick pay or trigger disciplinary proceedings for excessive sickness absence.

Examples of disability related absence could include:

- absence following the diagnosis of cancer
- reconstructive surgery as a result of cancer and associated recovery and rehabilitation
- appointments for assessing suitability for a cochlear implant and the operation to insert the implant
- diagnosis of diabetes might lead to sickness absence, and a period of adjustment and training in how to manage the condition would be impairment leave
- the choosing of and familiarisation with a new guide dog could also be considered disability related absence.

Disabled staff contending with life-threatening conditions or struggling to manage an impairment, such as a mental health condition, will welcome an enlightened impairment management approach geared to particular individual circumstances. Such staff are more likely to be retained by the organisation as a result and will reward it with loyalty and commitment. A disability related absence policy can be a reasonable adjustment to implement and has the potential to improve the retention of disabled staff. Applying good practice in terms of sickness absence management is likely to reduce sickness absence overall.

Mental health difficulties/stress management

One in four people will at some stage in their lives be challenged by mental health difficulties. All staff may experience some degree of stress. Effective and inclusive policies and practices for supporting staff with mental health difficulties will likely address the mental wellbeing of the whole workforce. Associated strongly with enlightened practice will be an informed and enlightened knowledge of mental ill-health, recognition of the often prevalent fear of stigma attached to it, and sustained attempts to overcome it. How an organisation manages mental health will have a big effect on retention and development.

SHIFT (2009), an initiative which is part of the National Mental Health Development Unit, advises support for staff with mental health difficulties in the following broad areas:

- promoting well-being
- the recruitment process
- talking at an early stage
- keeping in touch during sickness absence
- the return to work process
- managing ongoing illness.

An important consideration includes how staff in the team of someone with mental health difficulties are managed and communicated with, and others who may be affected such as learners and customers. Another should ensure that someone who has been away does not come back to a backlog of work that has not been dealt with.

An earlier version of the SHIFT guidance (SHIFT/DH/CSIP 2007 page 9) notes that 'A work culture where everyone is treated with respect and dignity… will improve the well-being of staff. If you promote such a culture you will see a reduction in sickness absence, grievance and discrimination claims, complaints and the incidence of mental health problems'. The organisation will develop a good reputation and retention will be maintained.

Anti-bullying, anti-harassment and anti-victimisation policies and processes

Perceived stigma attached to particular disabilities, such as mental health difficulties, can lead to incidents and sustained periods of bullying and harassment. It can ultimately cause staff to leave. It is essential to have effective, zero-tolerance anti-bullying and anti-harassment policies and procedures. One learning and skills infrastructure organisation, the National Institute of Adult Continuing Education, has an equal opportunities policy with this statement, very common to such policies:

> 'Bullying, harassment or victimisation of any kind will not be tolerated and reports of any such action will be investigated fully and appropriate disciplinary action taken.'

Ensuring that organisations have clear, well-monitored and well-communicated policies and strong processes for dealing with incidents will encourage disabled staff. There is a very strong connection between safeguarding (which tends to focus on children, young people and vulnerable adults), and the anti-bullying, discrimination, harassment and victimisation aspects of equality legislation. Extending sound safeguarding practice across whole organisations will help learners, students, staff and others with protected characteristics, including disabled staff.

The Employers' Forum on Disability (undated d page 11) highlights that deaf and hard of hearing people can be particularly vulnerable to harassment from colleagues, not just in terms of physical or verbal abuse but also in terms of loss of dignity in a hostile or humiliating environment. Harassment originates in stereotyping, intolerance and fear of difference. Support for deaf staff, and of course all disabled staff, should include deaf and disability equality training for all staff. Access for deaf and disabled staff to support networks can be very helpful.

Retention of disabled staff will inevitably be enhanced through zero tolerance of discrimination and harassment, fair and different treatment of disabled staff and full disability equality training for all staff. Employers and organisations will benefit from good morale and a reputation for being an enlightened employer.

Health and safety and disabled staff

Disabled staff will appreciate compliance with health and safety legislation in relation to their impairments and recognition that health and safety compliance is rarely in conflict with compliance with equality legislation. It is possible for employers not to retain or recruit disabled staff if there is an unacceptable risk to the employee or others, but too often health and safety grounds are used erroneously. The Employers' Forum on Disability (undated e page 5) reports that many large employers had not appointed or had dismissed disabled people on health and safety grounds and that many occupational health advisers believed there is a conflict between health and safety and disability discrimination legislation. Its guidance is useful and comprehensive.

A brief review of how to approach hazards and risks will enable employers to see how health and safety considerations can be used to support, retain and develop disabled staff. Ewens (2003 a page 23), following the Health and Safety Executive, identifies three stages to risk assessment:-

• hazard identification – identifying hazards that could cause harm

• risk assessment – assessing the risks arising from the hazards

• risk control – deciding on suitable measures to eliminate and control risk.

The Employers' Forum on Disability (undated e page 5) recommends a case management approach to individual impairment and health and safety. As for the 'risk to others' of hazards associated with disabled staff, very often hazards such as epilepsy are found to be trivial when properly assessed. The perceived hazards (including risk of violence) to others posed by staff with mental health difficulties are similarly very rare. The Learning and Skills Council (2006 paragraphs 53 and 54) shows how small the risk is through research about people in general with mental health difficulties.

The message about health and safety and disability discrimination is clear. Health and safety considerations can and should be used to support disabled staff and improve their working conditions and not as a 'stick with which to beat them'.

Case study

A wheelchair-using Skills for Life tutor had this to say about health and safety:

'The whole attitude of this [voluntary and community sector] learning provider has been can-do. The person responsible for health and safety never once said anything like 'I don't think we can do anything about this or that'. It has meant some peculiar arrangements and some timetable adjustments, but because the company has been so flexible and willing to make a go of it with me, I am ready to play my part. It suits everyone.'

Effective and accessible continuing professional development for disabled staff

Employers in the learning and skills sector are becoming more aware of the possibilities of positive action relating to staff with protected characteristics, including impairment, as are infrastructure organisations that support the sector.

Inclusion in 'succession-planning' and 'talent-spotting' initiatives

Equality legislation means that employers must be careful not to assume that disabled staff are not interested in or suitable for developing career opportunities when succession planning is being considered. 'Discrimination by perception' (of disability) and direct discrimination could become issues if the development needs of disabled staff are overlooked.

The context of practical measures

This chapter has gone into some detail about how practical approaches by employers to disabled staff can overcome the barriers they face. A useful mantra in helping disabled staff to carry out their roles might be 'For almost every challenge there is a solution'. There is a whole range of available supporting material for employers and disabled staff, but the key message for retaining and developing disabled staff through practical measures is clear. Such measures should be taken within the context of a supportive and enlightened organisational culture that respects everyone's dignity. Part of this is establishing disability equality and recognising its transformational potential.

Activity 3: Creating the right environment for disabled staff – practicalities

	Position statement	Red	Amber	Green	Evidence/ comments	Gaps in provision and actions required
1	We have good systems and processes for arranging reasonable adjustments for our disabled staff					
2	As far as we are able, we separate our approach to sickness absence and time off in relation to impairment					
3	We have good policies and practices for supporting the mental well-being of our staff, including training and development					
4	We have a zero tolerance policy against bullying, harassment and victimisation that applies to everyone in the organisation, which helps to support disabled staff					
5	We use an approach to health and safety that supports disabled staff whilst creating a healthy and secure environment for all. Our approach enables disabled staff rather than inhibiting their inclusion					
6	We are proactive in including disabled staff in continuing professional development and initiatives such as succession planning					
7	We are open to positive action initiatives that include and develop disabled staff					

Chapter 5:
The role of disabled staff in retention and development

Introduction

This chapter is strongly linked to the first section of Chapter 3 about exploring the experiences and perspectives of disabled staff themselves. The notion of involvement and partnership with disabled staff in advancing equality is key, and other sections of the chapter relate to this central message.

Involvement and partnership

One key element in retaining and developing disabled staff is ensuring that they are involved in the many aspects of life within the institution or organisation. Involvement at an individual level will often be about discussing and agreeing reasonable adjustments to accommodate impairments. Many disabled staff will also be involved, and want to be involved, in the fabric of their institution's work without any reference to impairment. Collective involvement to improve conditions and opportunities for disabled staff will often be through recognised trade unions, which have often been in the vanguard of improving the working lives of their disabled members. Partnership working, for example between an organisation and a trade union organised forum for disabled staff, will be effective when all participants have an organised and resourced base from which to work, and to which they are accountable.

Involvement of and partnership with disabled staff in improving their organisation and establishing disability equality is likely to be genuine if it is at least at the highest levels of figures 2 and 3 (in chapter 3 above). There is considerable specific advice about how to achieve involvement, for example in Centre for Excellence in Leadership (CEL) et al (2007), which includes case studies from further education colleges outlining approaches that use:

- online staff forums
- positive role models
- focus groups
- online questionnaires.

Involvement of disabled staff will bind and commit them to their organisations.

However, before involvement and partnership can be effective, disabled staff can benefit by being or becoming:

- assertive (non-passive), open and confident as disabled people
- knowledgeable about disability equality, including legal and political aspects
- experts through experience (in teaching, management, professional development)
- aspirational and ambitious
- role models.

Assertive, open and confident disabled staff

The Commission for Disabled Staff in Lifelong Learning found much evidence that disabled staff lack confidence and face other associated challenges, for example the comment:

> 'Mental health difficulties, sight impairment, hearing impairment, diabetes, pain and a range of other impairments made people tired and prone to forgetfulness, loss of confidence or loss of stamina. Panic attacks were not uncommon. Respondents expressed that they experienced frustration, anxiety about output and outcomes and sickness levels. In some cases they feared negative attitudes from colleagues.'

> Commission for Disabled Staff in Lifelong Learning a 2008 page 55

Staff who acquire impairments or long-term health conditions can be particularly challenged in facing an unknown and unimagined future, but even those with congenital impairments can go through 'stages' of belief and awareness. Narrative research by Gould (2004) noted the journey of one deaf person from apologising for the impairment and masking deafness through pretence and humour through to assertiveness and an embrace of the social model of disability (that requires others to address barriers to inclusion and reasonable adjustments). The role of continuing professional development is important for helping disabled and non-disabled staff and their employers in playing a full part in developing an inclusive workplace.

Knowledge and application of the principles of disability equality

Disabled staff should develop a good awareness of equality legislation in general. If they have this awareness, then their confidence will increase. The expression 'knowledge is power' is truly relevant to the notion of confidence and assertiveness in disabled staff and is strongly related to their grasp of disability equality issues.

Experts through experience

It is obvious that in many cases disabled staff are 'experts through experience' on the subject of their own individual impairments. Their involvement in general, organisation-wide and strategic improvements to deliver disability equality is very important. Effective involvement, which brings tangible change, will give disabled staff a sense of achievement, and can ultimately lead to a more inclusive and supportive working environment for all staff. Retention as a result will invariably be higher than in organisations that do not take advantage of the contribution of their 'experts through experience'.

Aspirational and ambitious disabled staff

The Commission for Disabled Staff in Lifelong Learning had this to say about the career aspirations of disabled staff:

> 'We were particularly struck by the 'fatalism' of many disabled staff about promotion and career progression. There are few disabled role models in senior and strategic positions.'

> (2008 a page 8)

Respondents to the Commission's call for evidence illustrated the reasons for this statement, for example:

'[My mental health condition] has effectively ended any chances of progression within the organisation. Taking on too much work could cause a relapse'

(2008 a page 46)

'Promotion of disabled people does not happen at my college. Disabled staff do not even bother to apply; they know from experience it's a waste of time.'

(2008 a page 62)

'Even if you are well qualified and have good experience, many managers see someone with a disability as potentially problematic.'

(2008 a page 62)

These are widely prevalent views. However, senior posts at operational or strategic level are not necessarily more demanding than other posts, and disabled staff are as likely as non-disabled staff to have the skills, experience and talent required. Making all employers and staff aware of this will increase the numbers of disabled staff who are interested in career progression and development. These points are strongly confirmed by the Sayce/RADAR (2010) research report.

Being role models

Some disabled staff resist having a 'disabled identity' within their organisations, an understandable and, of course, acceptable position to adopt. However, the Commission for Disabled Staff in Lifelong Learning found much evidence of disabled staff acting as role models for learners, students and other staff. Having a high number of disabled staff with apparent and non-apparent impairments at all levels will create a 'critical mass' of awareness and acceptance, which in turn will enhance retention and development.

Activity 4: The role of disabled staff themselves in retention and development

	Position statement	Red	Amber	Green	Evidence/ comments	Gaps in provision and actions required
1	We involve our disabled staff as partners in improving their employment experiences and working environment					
2	We value our disabled staff as 'experts through experience' and use this experience actively to make improvements					
3	We encourage our disabled staff to aspire to career development and be ambitious					
4	We welcome our disabled staff acting as role models if they are willing to do this					

Chapter 6:
Continuing professional development for disability equality

Introduction

High quality training with the purpose of retaining and developing disabled staff can ensure that aspiration for full and meaningful inclusion becomes reality. This chapter suggests some approaches that can be developed by learning providers and infrastructure organisations within a Continuing Professional Development programme framework. A programme of training and Continuing Professional Development, for disabled and just as crucially non-disabled staff, will achieve much progress towards disability equality and will be likely to retain disabled staff who know they are valued by their employer, and know that they have access to professional and career development.

Resources for such a programme could derive from the final report of the Commission for Disabled Staff, the 'implications for policy' of the Roulstone et al. research (2003) and the recommendations of the Sayce/RADAR (2010) work. Publications such as those produced by the Employers' Forum on Disability are also useful for basic case law.

A Continuous Professional Development framework for disability equality training

Ewens (2003) presented a stepped framework for managing staff development in adult and community learning. This could be adapted for a specific programme of disability equality training through the suggested stages of needs analysis, programme design and development, implementation (a planned programme of activities), evaluation and measure of impact. Figure 5 shows partly how this could be done through a grid matching staff and possible disability equality topics. Not all categories of staff would need to cover all topics – a needs analysis would shape an overall programme, with all participants undertaking 'core knowledge' activity decided through partnership with, and involvement of, disabled staff themselves in shaping the programme.

Any disability equality training should create a culture of dignity and mutual respect that values all staff, learners and stakeholders, disabled and non-disabled, through core and additional knowledge realised through practical actions. The result will be an organisation that retains and takes opportunities to develop disabled staff so that they can reach their full potential.

Case study

A long-serving tutor in a Local Authority Adult Learning Service was diagnosed as having multiple sclerosis. She and her manager had both recently been on mandatory equality and diversity training, along with all other members of the service, which had included an element on disability equality. Because of that, the tutor was able to disclose her newly acquired impairment and discuss it openly with her manager. Although she did not immediately require adjustments to help her in her teaching and other roles, she and her manager knew about what could be done, and were able to plan for the future together.

Case study

Because of a diary clash, a curriculum manager in a general further education college was unable to attend a mandatory equality and diversity training session (with a component on disability equality) that his institution put on for all staff. A lecturer in his section developed Type 2 diabetes which meant sudden frequent absences from the classroom and absences from work. Embarrassment and anxiety prevented discussion between manager and lecturer. The manager regarded the issues as constituting grounds for disciplinary action, and instigated a disciplinary review process. It was only after Human Resource and union involvement that the matter was resolved by exploration of reasonable adjustments, an apology by the manager, and his enrolment on the appropriate training.

Figure 4: Indicative disability equality training/Continuing Professional Development programme

Disability equality topic	Disabled staff	Member/corporation member/governor/trustee	Senior management team	Human resources director	Senior manager responsible for equality and diversity	Middle and line managers	Lecturers and tutors	Support, premises and administrative staff	Trade union representatives
Recent context of disability equality, including compliance with equality legislation		✓	✓	✓	✓				✓
Culture change through equality and diversity (including disability equality)		✓	✓	✓	✓				✓
The voice and experience of disabled staff ('core knowledge' topic)	✓	✓	✓	✓	✓	✓	✓	✓	✓
Models of impairment ('core knowledge' topic)	✓	✓	✓	✓	✓	✓	✓	✓	✓
'Saying and doing the right thing' (language of impairment) ('core knowledge' topic)	✓	✓	✓	✓	✓	✓	✓	✓	✓
Reasonable adjustments and anticipatory measures				✓	✓	✓			✓
'Circle of inclusion'					✓		✓	✓	
Progress audit	✓	✓	✓	✓					

Employee / Disability equality topic	Disabled staff	Member/ corporation member/ governor/ trustee	Senior management team	Human resources director	Senior manager responsible for equality and diversity	Middle and line managers	Lecturers and tutors	Support, premises and administrative staff	Trade union representatives
Action planning for recruiting, retaining and developing disabled staff				✓	✓				
Anti-bullying, anti-victimisation and anti-harassment	✓					✓	✓	✓	✓
Case law: disability discrimination			✓	✓	✓				✓
Confidence building, assertiveness for professional and career development and progression (positive action for aspirational disabled staff)	✓								
Coaching and mentoring for professional and career development	✓								

Notes on the indicative programme

The following notes give some additional information about the topics covered.

Recent context of disability equality

On the Commission for Disabled Staff in Lifelong Learning website (http://www.niace.org.uk/projects/commissionfordisabledstaff/documents.htm) is a PowerPoint presentation that can be adapted to suit particular contexts. The disability equality section of Lifelong Learning UK's website is also useful for more information on disability equality and the Disability Equality Implementation Group. The Equality and Human Rights Commission has a comprehensive series of guides on the Equality Act 2010, including rights for disabled workers: http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/equality-act-2010-guidance/. The Equality Challenge Unit has published a range of useful documents on disability equality and the Equality Act (2010) at http://www.ecu.ac.uk/subjects/disability. The references and bibliography contain useful resources.

Culture change through equality and diversity (including disability equality)

The Commission for Disabled Staff in Lifelong Learning entitled its final and summary reports *From compliance to culture change*, and this emphasis on culture change is reflected in many other guides and pieces of research on all the protected characteristics. In terms of disabled staff, the Sayce/RADAR report Doing Seniority Differently (2010), also refers to the importance of organisational culture as a background for success for senior disabled people, including where powerful open conversations can take place about impairment and overcoming barriers.

The voice and experience of disabled staff

This should be a key element of disability equality training, and if possible delivered by disabled people themselves. The Roulstone (2003) and Sayce/RADAR research both give good insights into the experiences of disabled staff.

Models of impairment

The most important models are the social and medical models, though it would be helpful for all staff to at least be familiar with the affirmative and 'bio-psychosocial' models. A presentation on and explanation of each model might be followed by exercises to convert text implicitly or explicitly reflecting the social model into text that reflects the social model. Instead of disability being located in the individual, it would be located in environmental and societal factors that present barriers to people with impairments. This is a fundamental principle of inclusion that all staff should grasp. There is a useful discussion of the different models in the literature survey accompanying the final and summary reports of the Commission for Disabled Staff in Lifelong Learning (2008 c).

'Saying and doing the right thing'

The language of impairment, as in other areas, is constantly evolving. Disabled people themselves will find different vocabulary acceptable or unacceptable. But saying and doing the right thing is vital to show that the concerns of disabled people are understood and taken seriously. The final and summary reports of the Commission for Disabled Staff in Lifelong Learning, and accompanying literature survey (2008 a, b and c), all have clear explanations about language and disabled people. Unison (undated) gives an excellent overview entitled Diversity in Diction, which includes impairment as well as other protected characteristics – http://www.swan.ac.uk/media/Media,30840,en.pdf. Figure 6 on page 37 could form the basis of a handout that can stimulate discussion and raise awareness in this sensitive area.

Figure 5: Saying and doing the right thing

Instruction: go through the table and tick the appropriate boxes, giving reasons for your choice; be prepared to discuss your choices

Item	OK?	Dubious?	Reason for response
People with disabilities			
The able-bodied			
People who are hearing/visually impaired			
The disabled			
A disabled person plucky in the face of adversity			
Disabled toilets			
Wheelchair-bound			
People with mental health problems			
Disabled people are more unreliable than non-disabled people			
Hidden disabilities			
Disabled people overcoming their disabilities			
Disabled people are ill			
Adults with learning difficulties and disabilities			
Temporarily-abled people/currently-abled people			

Reasonable adjustments and anticipatory measures/'circle of inclusion'

Switching from reasonable adjustments to anticipating the needs of disabled staff is not necessary in legal terms, but if employers take opportunities to anticipate future needs it sends out a positive message. The 'circle of inclusion' in figure 3 could be adapted for a training activity. The suggestions accompanying the process of inclusion could be removed from the diagram. People attending the training could be given a list of people with impairments, long-term health conditions or learning differences and asked to work out how they could be included. The list could include:

- people with mental health difficulties
- people with HIV
- blind people
- deaf people
- people who develop diabetes
- dyslexic people
- people recovering from cancer.

Progress audit/action planning

Figure 6 is based on the recommendations of the Commission for Disabled Staff in Lifelong Learning (2008 b pages 19-20). Whereas this progress audit is vital to strategic staff for establishing where an organisation is in its disability equality journey, an action plan (an example can be found in Figure 4 above) is the responsibility of the equality and diversity lead person supported by human resources.

Figure 6: The Commission for Disabled Staff in Lifelong Learning: recommendations

We recommend that lifelong learning organisations:

Position statement	Red	Amber	Green	Evidence
Clearly designate a senior member of staff with responsibility for disability equality and ensuring that all senior managers and line managers are aware of their responsibilities with disability equality policies				
Ensure that disabled people are encouraged to be trustees and governors and that bodies responsible for governance include disabled people				
Develop appropriate mechanisms to ensure that the voices of disabled staff are involved, heard and supported, such as through disabled staff groups, equality committees, liaison/focus groups and/or affiliation to national networks				
Review and revising policies, processes and procedures for disclosure, and removing barriers to disclosure, to create a positive and secure culture for disclosure				
Ensure that disability equality policies and schemes, staff appraisal schemes and impact assessments involve disabled staff and trade union officials, reporting to governing bodies/trustees annually, as the Public Sector Equality Duty requires				
Sign up to schemes such as the 'Mindful Employers' Charter', and the 'Two Ticks' scheme				
Review recruitment procedures to encourage applications from disabled people; guaranteeing interviews to disabled applicants meeting the minimum job requirements; and adopting open and inclusive recruitment processes, especially for part-time and/or temporary staff				
Ensure that each lifelong learning organisation sets out to achieve:				
a. staff which reflects the disability profile of the adult working population				
b. well-informed management and governance through training and appraisal programmes				
c. sound policies and practices on disability absence and disclosure				
d. share good practice in supporting both disabled learners and disabled staff				
e. better promotion of disability equality in staff training for part-time and full-time staff				
f. full recognition of the need for individual responses to staff disclosure, with individual follow-up and support arrangements				
Finance reasonable adjustments centrally so that no section, department or faculty is disadvantaged, financially or otherwise, in meeting disability equality responsibilities				
Develop support for disabled staff, such as mentoring and work-shadowing, and a disability equality component in appraisal schemes – to contribute to raising the achievement of disabled staff				
Ensure that disability equality good practice is shared between organisations, between staff and learners, and including where possible contractors and agencies delivering goods and services				

Anti-bullying, anti-harassment and anti-victimisation policy and processes

It is ideal to cover these at annual or other major staff development events. Many anti-bullying and anti-harassment policies cover all the protected characteristics including impairment: age, gender, gender reassignment, pregnancy and maternity, race, religion and belief and sexual orientation. All are important, but staff need to be aware of the often subtle bullying and harassment that disabled staff may face.

Case law: disability discrimination

It is important that everyone, including senior managers and those responsible for governance, embraces disability equality simply as the right thing to do. But a useful, interesting and motivating way of achieving a good understanding of all aspects is by looking at and discussing legal case studies. The Employers' Forum on Disability (including undated publications a, b, c, d and e) produces a range of excellent guides with relevant case studies that demonstrate key principles.

Coaching and mentoring for professional and career development (positive action for aspirational disabled staff)

Equality legislation highlights that positive action schemes are possible. Infrastructure organisations in the lifelong learning sector are realising the value of programmes specifically aimed at disabled staff, based on research evidence, and work in partnership on them with 'frontline providers'. Such programmes often focus on confidence building and assertiveness and are improved by coaching and mentoring support. They combat the 'fatalism' in many disabled staff, identified by the Commission for Disabled Staff in Lifelong Learning (2008 a and b), who believed that impairments shape and limit their careers and not external barriers.

Activity 5: Continuing professional development for disability equality

	Position statement	Red	Amber	Green	Evidence/ comments	Gaps in provision and actions required
1	We have a continuing professional development programme with mandatory elements of equality and diversity training for all staff, disabled and non-disabled					
2	We have an element of disability equality training with core knowledge and additional features					
3	Our equality and diversity training includes at least some of the elements in the framework in this chapter					
4	We take positive action to give access to continuing professional development specifically for disabled staff					

Chapter 7:
Retaining and developing disabled staff: a strategic approach

Introduction

As with all initiatives to improve one aspect or another of any organisation, a strategic approach is essential. It will ensure that steps to improve the retention and development of disabled staff (principally through achieving disability equality) reach all parts. It underpins and should be the source of all other activities. A strategic approach will enable institutions to establish excellent practice to involve and support disabled staff (in terms for example of providing reasonable adjustments). But it will also help avoid situations where there is excellent overall practice but lingering pockets of unacceptable practice.

> **Case study**
>
> The director responsible for equality and diversity at a work-based learning provider had recently attended a conference on mental health and well-being. She believed that mental health difficulties at the organisation were more of an issue than indicated by the small numbers of staff who disclosed them.
>
> At the next Senior Management Team meeting, the team decided to look at its strategic plan and add mental health and well-being training for all staff, focusing on elements such as encouraging disclosure, creating an open culture and strengthening ways of improving the overall health of the organisation.

> **Case study**
>
> A disabled staff member in a Scottish university noted that she had worked in a previous institution where there had been comprehensive and high quality policies and procedures to promote and develop disability equality (with similar policies and procedures covering other equality strands), but that they had not protected her from discrimination and poor practice 'on the ground'.
>
> At her current institution, although the policies and procedures were not so comprehensive or high quality, she was well supported and enabled to function effectively and efficiently by her manager and department.

Framework for strategic action

The framework adapted from Woodhams and Corby (2007) in Lifelong Learning UK (2009 a chapter 7 pages 38-40) can be further adapted into a related framework for the purpose of retaining and developing disabled staff already employed in the lifelong learning sector. More ambitiously, one framework could be developed for attracting disabled people, retaining and developing them as staff, and encouraging declaration/disclosure of impairment.

Having written policies

These set out the direction and focus for the organisation. For example, a positive action programme can be part of a Staff Development Policy for professional development of disabled staff. Within equality and diversity and related policies could be sections on reasonable adjustments and mandatory equality training (including disability equality) for all staff.

Developing managerial responsibilities

These recognise the importance of managers' attitudes and behaviour in efforts to retain and develop disabled staff, for example through:

- designating a senior manager to work in partnership with disabled staff
- mandatory, 'core knowledge' disability equality training for managers
- creating action plans for retaining and developing disabled staff.

Positive action

Positive action is possible for staff with any protected characteristics or a combination of them. The unique aspects of impairment make positive action particularly useful for disabled staff, and impairment is the only characteristic that can engender more 'favourable treatment' of disabled people compared to non-disabled people. Positive action could include:

- automatic internal shortlisting for promotion of disabled staff with the right experience and credentials
- a dedicated continuing professional development programme
- specialised careers advice and professional development.

Positive action will show disabled staff that they are valued and have much to contribute to the diversity and flexibility of an organisation, and therefore help to retain them.

Resourcing measures

These measures will ensure that ways of retaining and developing disabled staff will be funded and built in to appropriate budgets, such as staff development.

External help and advice

Specialist advice and support for retaining and developing disabled staff could include:

- consulting with and involvement of trade unions (locally and nationally)
- use of Access to Work
- use of equality legislation and Equality and Human Rights Commission helpline
- application for innovative project funding (e.g. Continuing Professional development positive action for disabled staff) from agencies supporting the learning and skills sector (e.g. the Learning and Skills Improvement Service and Equality Challenge Unit)
- engagement with specialist agencies such as the National Institute of Adult Continuing Education (NIACE), the Shaw Trust etc.
- use of specially developed online resources for disabled staff and learners in the lifelong learning sector.

Making adaptations

Making adaptations is clearly about reasonable adjustments for disabled staff and treating them 'more favourably' than non-disabled staff so that they can do their jobs as well as possible, but also about proactively anticipating their needs in a partnership, involvement approach. Adaptations could include:

- establishing a central budget for reasonable adjustments according to employers' duty in paragraph 23 above
- installing special equipment
- adapting premises
- re-allocating duties
- adapting training procedures
- having effective partnership and involvement processes so that disabled staff feel empowered.

See also the introduction to Chapter 4.

The following template can be applied to the framework. The strategic plan can be informed by responses to activities 1-4 in the previous chapters.

Figure 5: A strategic action plan template for retaining and developing disabled staff

Element 1: Written policies					
Actions	By whom	Monitored by	Output	Outcome	By date

Element 2: Managerial responsibilities					
Actions	By whom	Monitored by	Output	Outcome	By date

Element 3: Positive action					
Actions	By whom	Monitored by	Output	Outcome	By date

Element 4: Resourcing measures					
Actions	By whom	Monitored by	Output	Outcome	By date

Element 5: External help and advice					
Actions	By whom	Monitored by	Output	Outcome	By date

Element 6: Making adaptations					
Actions	By whom	Monitored by	Output	Outcome	By date

Activity 6: Retaining and developing disabled staff: a strategic approach

	Position statement	Red	Amber	Green	Evidence/ comments	Gaps in provision and actions required
I	We have a strategic plan for retaining and developing our disabled staff, or there is an element of an overall strategic plan which covers retaining and developing our disabled staff					

Chapter 8:
Conclusion

In its guide to transgender equality in the learning and skills sector, the Forum on Sexual Orientation and Gender Identity in Post-School Education makes an eloquent, easy to endorse and powerful statement:

> 'The benefits of promoting trans equality go far beyond legal compliance. An institution that understands and meets the needs of trans staff and students has grasped the principles of equality. It will be a better place to work and study.'

(Forum 2009 page 28)

A very similar sentiment is expressed by the Commission for Disabled Staff in Lifelong Learning in relation to disability equality, which is equally easy to endorse:

> 'The principal beneficiaries of our work will be disabled staff and potential disabled staff in the sector. But our report will benefit everyone in the lifelong learning sector, whether or not they are disabled, and goes beyond disability to the heart of ethical and effective organisational functioning. A culture that promotes disability equality will inevitably bring improvements and dignity at work for all.'

(2008 b page 17)

Retaining and developing disabled staff in the learning and skills sector, for the benefit of all learners, staff and other interested groups, is an important part of a general movement towards equality for people with any protected characteristics or combination of protected characteristics who are part of the sector. Organisations that are successful in retaining and developing disabled staff should be applauded. It would be surprising if they did not also excel in working towards equality and promoting diversity far beyond what they achieve for their disabled staff.

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Useful websites

www.cae.org.uk

http://www.disabilityfwd.co.uk/about-us.php

http://www.disabledgo.info/Default.asp

http://www.efd.org.uk/

http://www.equalityhumanrights.com

www.equality.leeds.ac.uk

http://www.inclusion.me.uk/

http://www.shaw-trust.org.uk/home

http://www.skill.org.uk/

www.techdis.ac.uk

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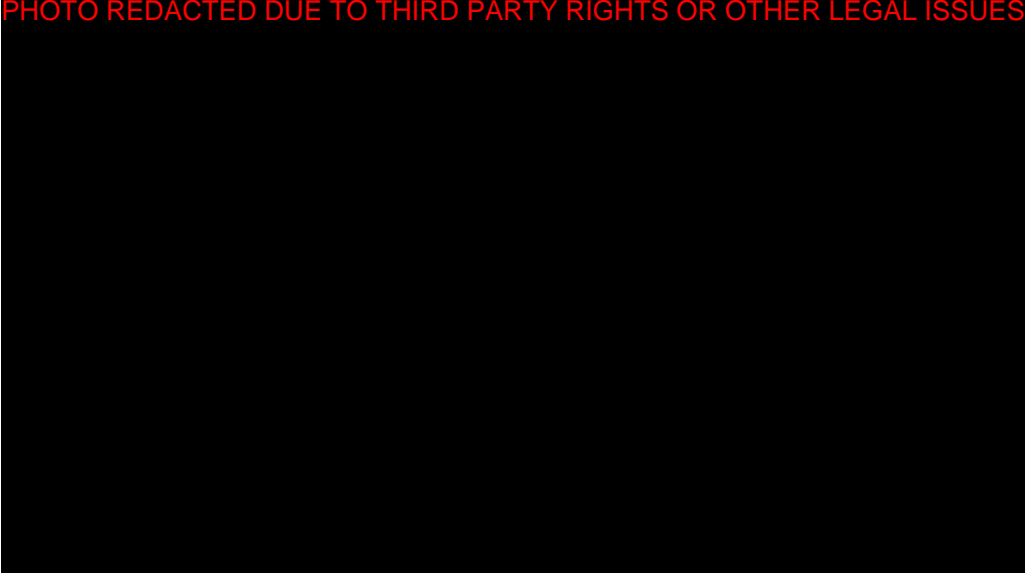
Skills for Learning Professionals

Lifelong Learning UK

BELFAST
2nd Floor, Midtown Centre, 25 Talbot Street, Cathedral Quarter,
Belfast, BT1 2LD
Tel: 0870 050 2570 Fax: 02890 247 675

CARDIFF
Sophia House, 28 Cathedral Road, Cardiff, CF11 9LJ
Tel: 029 2066 0238 Fax: 029 2066 0239

EDINBURGH
CBC House, 24 Canning Street, Edinburgh, EH3 8EG
Tel: 0870 756 4970 Fax: 0131 229 8051

LEEDS
4th Floor, 36 Park Row, Leeds, LS1 5JL
Tel: 0870 300 8110 Fax: 0113 242 5897

LONDON
Centurion House, 24 Monument Street, London, EC3R 8AQ
Tel: 0870 757 7890 Fax: 0870 757 7889

Email: enquiries@lluk.org

www.lluk.org

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