Birkbeck Code of Practice on Disability in Employment

1. Introduction
The Code of Practice on Disability in Employment sets out Birkbeck’s approach to accommodating disabled people’s needs (job applicants or current staff) by implementing reasonable adjustments in the workplace and working arrangements. The Code articulates the College’s intention to retain disabled staff and promote disability equality in employment by removing barriers to access, tackling discrimination and implementing best practice employment initiatives.

2. Scope
The Code applies to all disabled staff and those who become disabled whilst in employment.

As a public authority Birkbeck has a responsibility under the Public Sector Equality Duty of the Equality Act 2010 to eliminate discrimination, harassment and victimisation, to promote equality of opportunity and foster good relations. This provides disabled people with protection from discrimination in a range of areas and requires that:

- Employers make reasonable adjustments to accommodate a worker with a disability
- Disabled employees are protected from harassment at work
- Employers have policies in place to prevent discrimination

3. Core Principles
The following set of core principles will provide the framework and parameters within which the Code of Practice will operate. The College is committed to:

- Equality of opportunity for all through policy and service provision
- Ensuring fairness during recruitment, access to development and promotion opportunities for disabled people
- Recognising and valuing differences by creating a supportive working environment that demonstrates our commitment as an employer of choice
- Reflecting good practice in initiatives that support best practice
- Supporting and retaining staff
- Creating a supportive environment to encourage disclosure
- The provision of appropriate services to meet the needs of staff and students

4. Definitions
4.1 Under the Equality Act 2010 disability is defined as a physical or mental impairment which has a ‘substantial and long-term effect on your ability to carry out normal day-to-day activities’ (‘substantial’ being defined by the Act as ‘more than minor or trivial’). These activities can cover:

- mobility
- manual dexterity
- physical co-ordination
- continence
- ability to lift, carry or move everyday objects
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand
- understanding of the risk of physical danger
4.2 **The Social Model of Disability**

The traditional view of disability is that it is a medical problem or condition that an individual suffers from, that affects their quality of life and may cause them disadvantage within society.

For disabled people, trying to get on with their lives as independently as possible, disability is perceived as a social issue caused by the way society is organised. The social model highlights the problems and barriers that disabled people face, from access and travel to assumptions and stereotyping of disability. The social model considers how to remove the barriers that restrict their life choices and their ability to be independent.

Under the Equality Act, indirect disability discrimination means that employers must not make a decision that has a worse impact on someone who shares a particular\(^1\) equality protected characteristic than it has on people who do not share it, unless the differential treatment is objectively justifiable.

The Equality Act also extends legal protection to people who are discriminated against because of their association with a disabled person.

People with HIV, cancer and multiple sclerosis are deemed to be covered by disability discrimination protection, effectively from the point of diagnosis, rather than from the point when the condition has some adverse effect on their ability to carry out normal day-to-day duties.

In terms of legal protection for disability discrimination, there are a number of exclusions including addiction to drugs or substance misuse. However, whilst these may be excluded, if the employee becomes depressed in the longer term due to these conditions, they may then be covered by the Act.

4.3 **Reasonable Adjustments**

As an employer and service provider, Birkbeck has a duty of care to support the health, safety and wellbeing of disabled staff and to make reasonable adjustments where appropriate and make sure staff do not face 'substantial disadvantage'.

This may require making changes to a job role or workplace environment for a disabled member of staff who has or will have problems carrying out their job. The changes are specific to the needs of the employee and should be made as soon as practicable upon appointment or when disability is disclosed during employment.

Reasonable adjustments could be in relation to a policy, criterion or practice (for example selection criteria for recruitment) or physical features (e.g. access to lecture rooms) and the lack of an auxiliary aid. Once we are aware of a disability we need to ascertain the support and adjustments that are required, respond promptly and actively put them in place. Examples might include the following:

- Making adjustments to premises or the disabled person's workplace (including, where necessary, the provision of special equipment)
- Assigning a disabled person to a different location of work
- Allowing a guide dog or hearing dog into the workplace
- Allocating minor duties of the disabled person to another staff member

\(^1\) The nine equality protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. *Marriage and civil partnership* will only apply in respect of the elimination of unlawful discrimination in employment.
• Redeployment to a suitable alternative post (if no reasonable adjustment to current working arrangements or premises is possible); this may involve retraining the staff member
• Altering the disabled person’s working hours (e.g. allowing the disabled person to work flexible hours to enable additional breaks to overcome fatigue arising from the disability or to accommodate their transport arrangements, or changing the disabled person’s hours to fit with the availability of a carer)
• Allowing the person a reasonable amount of time off for remedial therapy and assessment etc. in connection with their disability
• Training the disabled person to use special equipment
• Modifying instructions or reference manuals (the way instruction is normally given may need to be revised when telling a disabled person how to do a task (e.g. Braille/large print) or instructions for people with learning disabilities may need to be conveyed orally with individual demonstration)
• Modifying selection tests (e.g. a person with restricted manual dexterity might be disadvantaged by a written test, so the College might have to give that person an oral test)
• Providing a reader or interpreter (e.g. colleague reading mail to a person with visual impairment)
• Providing help from a colleague for someone whose disability leads to uncertainty or lack of confidence.

A reasonable adjustment to working arrangements can often accommodate an individual’s disability and they should then be considered on the same basis as anyone else.

5. Implementation and management arrangements

5.1 Every effort will be made to accommodate disabled people’s needs in employment at the College by making reasonable adjustments to the workplace and to working arrangements. This applies to all aspects of employment, including recruitment and selection, induction, probation, appraisal, staff development, promotion, redundancy, disciplinary or grievance procedures, etc. This will apply to job applicants and other current members of staff.

5.2 Recruitment

Recruitment and selection decisions should be made on the basis that the best person will be selected for the job. If a candidate is disabled then the College can offer the guaranteed interview scheme if the applicant meets the essential criteria under the Jobcentre Plus ‘Two Ticks’ Positive about Disabled People scheme (please note the scheme is under review and should be understood as such in the draft Code of Practice), see section 6 for Good Practice Employment Initiatives.

1. Application

It is unlawful to include requirements which are not essential or are marginal to a particular post. For example: insisting on a particular level of educational qualification, even though it is not necessary or significant for the job; inserting in job descriptions physical requirements (e.g. mobility) from candidates when it is not necessary or significant for the job.

Job descriptions and person specifications will include only those criteria, which are entirely necessary for undertaking the duties and responsibilities of the job concerned.

To encourage applications from disabled candidates, the HR webpage includes the phrase “applications from disabled people are welcomed” and captures the Two Ticks symbol as part of our commitment to the ‘Two Ticks’ Positive about Disabled People scheme.
2. **Shortlisting**

   Shortlisting and selection decisions should be made on the basis of who is the best person for the job and if a disabled candidate meets the essential criteria they will be shortlisted.

3. **Interview and reasonable adjustment arrangements**

   In the recruitment materials sent out, applicants are asked if they have a disability and what sort of arrangements would be necessary for an interview. The College will make every reasonable effort to accommodate a candidate’s requirements, including meeting the cost of travel expenses by taxi where this is necessary because of the candidate’s disability.

4. **Selection**

   In general, an employer should not ask applicants about their health or disability during the application process or during an interview. However, questions can be asked about the person’s disability e.g. reasonable questions about any changes that may need to be made to the workplace prior to the interview.

   The criteria used in interviews and selection tests should only relate to what will be required of the future post-holder e.g. it would be inappropriate to require someone with learning difficulties to complete a numeracy test where the job entails very little numerical work and is not part of the person specification or the job description.

   Additionally, where selection tests are used, the type of test should not substantially disadvantage a disabled candidate and adjustments should be made when needed.

   Adjustments to selection tests could include: giving candidates a reader or scribe; allowing candidates a longer time period; accepting a lower pass rate; allowing the use of an adapted keyboard or other such adjustment.

5.2 **Retention**

   The College will make every effort when a person becomes disabled to ensure they can stay in their current job or an alternative one. Retaining an employee who has become disabled or whose existing condition worsens, means keeping their valuable skills and experience and will save on the cost of recruiting a replacement.

   Promoting an enabling and supportive environment that encourages staff to disclose their disability will help to establish/inform on the specific needs of the disabled staff member and enable the appropriate reasonable adjustments to be put in place.

   Managers should refer to the Sickness Absence policy when dealing with the retention of a disabled person or someone who becomes disabled. The policy seeks to provide ‘appropriate staff retention and return to work after illness, for example through a phased return, counselling, occupational health, flexible working, reasonable adjustments and in some cases redeployment’. Should an employee become disabled whilst in employment or their condition worsen they should raise this issue with their Manager or HR. In such cases the following should be considered and may be a useful guide in cases of redeployment or redundancy:

   - To determine the needs of the disabled member of staff, the manager should liaise with HR and meet with the individual. An occupational health assessment at an early stage may be recommended where specialist occupational health advice is needed.
   - The disabled staff member concerned, and (if s/he wishes) their College trade union representative or work companion, will be consulted by HR, in liaison with their line
manager about the available options, including redeployment or redundancy where appropriate.

- If this should happen and there are aspects of their present employment which require reasonable adjustments or that may make it difficult for them to carry on in the same work, Birkbeck will do all it can to provide reasonable adjustments to ensure they can stay in employment with the College.
- Reasonable adjustments may be discussed or picked up within the PDR process.

5.3 **Service provision**

As an employer and education provider, the College must ensure that appropriate services are in place to meet the needs of staff and students; and promote disability equality by removing of barriers to access, tackling discrimination and implementing good practice.

Consultation and engagement with disabled staff will be undertaken through the Disability and Equalities Committees and feedback will be captured in the annual review process of the Jobcentre Plus ‘Two Ticks’ Positive about Disabled People scheme.

5.4 **Development and learning**

One of Birkbeck’s strategic equality objectives is to ‘raise awareness and understanding for all staff and students of their equality and diversity responsibilities’.

Induction and support is an important part of the recruitment process for all new employees, but this may be more so for disabled people. The induction of disabled employees should cover the following:

- HR support to line managers and new employees
- Mentoring and buddy schemes for new disabled staff
- Line manager’s support and induction of new disabled staff
- Disability related guidance for managers and all staff
- HR support for managers
- Reasonable adjustment arrangements
- Access to work
- Clear signage on how to access ITS, Assistive Technology and Health & Safety

The College is committed to the provision of disability awareness to all staff in order to improve the working environment, and the training and development of disabled staff. A range of activities are in place:

- Disability awareness training for line managers, team leaders and those with responsibility for managing staff/students with disabilities
- Recruitment & Selection training captures disability issues and the ‘Two Ticks’ Positive about Disabled People scheme
- HR guidance for managers on disability

5.5 **Duty of care and wellbeing**

Disability related sickness absence, and attendance at disability related medical appointments will be recorded but not categorised as sickness absence. Issues relating to attendance and disability underlying medical conditions will take into account the College’s commitment to retaining staff through making reasonable adjustments to jobs, equipment and processes, offering flexible working options and accessing medical advice through occupational health.

More information on this can be found in the Sickness Absence policy.
6. **Good Practice Employment Initiatives**

6.1 The College has signed up to the ‘Two Ticks’ Positive about Disabled People and the ‘Mindful Employer’ good practice employment initiative schemes which will help to drive the College’s implementation of the Code of Practice.

6.2 **‘Two Ticks’ Positive about Disabled People Scheme**

Two Ticks commits us to develop disability good practice around employment, retention, training and career development of disabled employees. The five ‘Two Ticks’ commitments are:

- Interview all disabled applicants who meet the minimum criteria for a job vacancy and to consider them on their abilities
- Ensure there is a mechanism in place to discuss, at any time but at least once a year, with disabled employees, what both parties can do to make sure disabled employees can develop and use their abilities
- Make every effort when employees become disabled to ensure they stay in employment
- Take action to ensure that all employees develop the appropriate level of disability awareness needed to make sure these commitments work
- Review these commitments each year and assess what has been achieved, plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans

6.3 **Mindful Employer Charter Scheme**

The Mindful Employer scheme is an available resource and support mechanism for staff who experience stress, anxiety, depression or other mental health conditions in the workplace. It is aimed at increasing awareness of mental health at work and the provision of ongoing support for employers in the recruitment and retention of staff. Mindful Employer’s key principles are to:

- Increase awareness of mental health
- Develop good practices that are sensible, achievable and realistic at the same time applying the core principles of ‘Mindful Employer’
- Integrate and adapt ‘Mindful Employer’ principles into the College’s policies, structure and culture for the longer term benefit of staff
- Develop a supportive environment that will encourage disclosure of mental ill health without fear of rejection, prejudice or stigma

Line managers or staff can contact the HR Equalities Manager or HR for further information about the scheme.

7. **Monitoring and Review**

Monitoring and reviewing College practices and achievements around disability issues will be undertaken on an annual basis to ensure that continuous improvement is made on disability practice. This will involve:

- Feedback mechanisms between HR and Schools/Professional Service departments to monitor implementation of the scheme and pick up any issues in a timely way with appropriate interventions where required
- Engagement and consultation with the College Committees, forums and stakeholders
- Monitor practices and achievements in meeting the ‘Two Ticks’ Positive about Disabled People commitments
• Annual disability review of the ‘Two Ticks’ Positive about Disabled People scheme with Jobcentre Plus
• Seeking feedback around disability and other related initiatives

8. Responsibilities
All staff have a responsibility to ensure fair and equal treatment of disabled people at work.

Staff members have a responsibility to alert the College to changes in their medical condition.

Staff members with specific responsibility for managing staff with disability have a duty of care:
• To ensure that they are aware of the Code of Practice requirements and that these are carried out
• To ensure that all staff are made aware of the Code of Practice
• To ensure that they themselves do not discriminate against disabled people
• Managers should raise any issues and discuss support needs for disabled staff during their PDR

Further information and advice on disability issues can be sought from the following:
• Human Resources information and advice on recruitment and retention of disabled staff
• Disability Office
• Health and Safety
• Access Support and Assistive Technology
• IT Services

Please refer to the Recruitment and Selection policy, the College’s Dignity at Work and Study policy and the Sickness Absence policy.