Torbay and South Devon NHS Foundation Trust

REASONABLE ADJUSTMENT POLICY (ED4)

If you require a copy of this policy in an alternative format (for example large print, easy read) please contact the Accessible Information Team at dis.torbay@nhs.net or 0300 456 8373 for advice

If you would like any assistance in relation to the content of this policy please contact the Diversity & Inclusion Officer on 01803 656705

Torbay and South Devon NHS Foundation Trust

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Directorate:	Workforce and Organisational Development		
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Partnership Board		November 2020	
Links or overlaps with other policies:			
Diversity & Inclusion Policy (ED1)			
Special Leave Policy (H9)			
Organisational Change Policy (H29)			
Attendance Policy (H33)			
Grievance Policy (20 - TSDFT) or (HR01 - TSD)			

Amendment History

Issue	Status	Date	Reason for Change	Authorised

NHS
Torbay and South Devon
NHS Foundation Trust

Rapid (E)quality Impact Assessment (EqIA) *(for use when writing policies)*

Policy Title (and number)	**Reasonable Adjustment Policy**	**Version and Date**	V1 October 2019
Policy Author	Diversity & Inclusion Lead		

An (e)quality impact assessment is a process designed to ensure that policies do not discriminate or disadvantage people whilst advancing equality. Consider the nature and extent of the impact, not the number of people affected.

Who may be affected by this document?

Patients/ Service Users ☐	Staff ☐	Other, please state… ☐

Could the policy treat people from protected groups less favorably than the general population?
PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below

Age	Yes ☐ No☒	Gender Reassignment	Yes ☐ No☒	Sexual Orientation	Yes ☐ No☒
Race	Yes ☐ No☒	Disability	Yes ☐ No☒	Religion/Belief (non)	Yes ☐ No☒
Gender	Yes ☐ No☒	Pregnancy/Maternity	Yes ☐ No☒	Marriage/ Civil Partnership	Yes ☐ No☒

Is it likely that the policy could affect particular 'Inclusion Health' groups less favorably than the general population? (substance misuse; teenage mums; carers[1]; travellers[2]; homeless[3]; convictions; social isolation[4]; refugees)	Yes ☐ No☒

Please provide details for each protected group where you have indicated 'Yes'.

VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion

Is inclusive language[5] used throughout?	Yes ☒ No☐ NA ☐
Are the services outlined in the policy fully accessible[6]?	Yes ☒ No☐ NA ☐
Does the policy encourage individualised and person-centered care?	Yes ☒ No☐ NA ☐
Could there be an adverse impact on an individual's independence or autonomy[7]?	Yes ☐ No☒ NA ☐

EXTERNAL FACTORS

Is the policy a result of national legislation which cannot be modified in any way?	Yes ☐ No☒

What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?)

To provide support, guidance and advice Reasonable Adjustments for staff who have a disability/Long term condition that is recognized and protected under the Equality Act 2010.
To Raise awareness amongst all managers and staff of the moral, social and legal obligations to make reasonable adjustments for people who have disability/long term condition.
To encourage disabled staff to declare their disability to enable the Trust to support them with reasonable adjustments.
The policy will have a positive impact, as the aim is to support staff who have or may acquire a disability that impacts on them carrying out their role.

Who was consulted when drafting this policy?

Patients/ Service Users ☐	Trade Unions ☒	Protected Groups (including Trust Equality Groups) ☒
Staff ☒	General Public ☐	Other, please state…HR ☒

What were the recommendations/suggestions?

Does this document require a service redesign or substantial amendments to an existing process? ***PLEASE NOTE: 'Yes' may trigger a full EIA, please refer to the equality leads below***	Yes ☐ No☒

ACTION PLAN: Please list all actions identified to address any impacts

Action	Person responsible	Completion date

Please contact the Equalities team for guidance: For Torbay and South Devon NHS Trusts, please call 01803 656676 or email pfd.sdhct@nhs.net **This form should be published with the policy and a signed copy sent to your relevant organisation.**

[1] Consider any additional needs of carers/ parents/ advocates etc, in addition to the service user
[2] Travelers may not be registered with a GP - consider how they may access/ be aware of services available to them
[3] Consider any provisions for those with no fixed abode, particularly relating to impact on discharge
[4] Consider how someone will be aware of (or access) a service if socially or geographically isolated
[5] Language must be relevant and appropriate, for example referring to partners, not husbands or wives
[6] Consider both physical access to services and how information/ communication in available in an accessible format
[7] Example: a telephone-based service may discriminate against people who are d/Deaf. Whilst someone may be able to act on their behalf, this does not promote independence or autonomy

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SECTION ONE

1. POLICY STATEMENT

1.1 This policy aims to:

- Raise awareness amongst all managers and staff of the moral, social and legal obligations to make reasonable adjustments for people who have a disability or long-term health condition;
- Encourage staff with a disability/long-term condition to declare their information which will then enable the Torbay & South Devon NHS Foundation Trust (The Trust) to abide by a request for reasonable adjustments and to feel confident that they will be supported by the Trust should they require them;
- Provide staff with the procedure to be followed if they feel that this policy is not being adhered to;
- Provide staff with the procedure to be followed if Health & Safety or Occupational Health advice conflicts with this policy statement.

2. INTRODUCTION

2.1 The Equality Act 2010 requires the Trust to make reasonable adjustments where a provision, criterion, function, practice and/or physical, environmental conditions of features in premises occupied by the Trust, places a disabled person at a substantial disadvantage when compared with people who are not disabled.

2.2 For people with a disability or a long-term health condition, their sickness absence may have nothing to do with their disability. However, if their sickness absence is related to a disability, the Trust has a duty under the Equality Act 2010 to make reasonable adjustments.

2.3 Reasonable adjustments may be required when a disabled person applies for and is recruited to a post, when a member of staff becomes disabled or develops a long-term health condition, when the impact of an impairment or medical condition deteriorates for an employee, when there is a change to the workplace or employment arrangements, or when there is need for a disabled member of staff to undertake further training.

2.4 Reasonable adjustments may extend to the individual concerned only (such as providing a support worker, acquiring or adapting specialist equipment or organising transport to and from and within work) or, they may be more wide-ranging to include changes to policies, procedures or corporate functions, to working arrangements or to enable access to premises that also includes car parking, signage, light/noise levels and safe evacuation.

2.5 The Trust must take reasonable steps to avoid disadvantage being caused to any disabled person in relation to recruitment, retention, promotion, development, retirement and dismissal.

2.6 In Accordance with the Trust's Diversity & Inclusion Policy (ED1) this policy aims to support any disabled member of staff who requires reasonable adjustments as far as this is reasonably possible.

3. SCOPE

3.1 All managers and staff are required to adhere to their responsibilities under this policy. It is important to note that reasonable adjustments must be implemented for people who belong to the following groups and who have an impairment or health condition that falls within the definition of disabled under the Equality Act as described in appendix 1:

- Permanent, temporary and bank staff;
- Volunteers or visitors undertaking work for, in partnership with or on behalf of the Trust;
- People on work placement with the Trust;
- People not employed by the Trust attending Trust training or development courses, whether on or off site;
- People on secondment to or from the Trust;
- Office holders such as board members and non-executive directors;
- People not employed by the Trust attending Trust related social or other events, whether on or off site.

4. EQUALITY AND DIVERSITY STATEMENT

4.1 The Trust is committed to an environment that promotes equality and embraces diversity in its performance as an employer and service provider. It will adhere to legal and performance requirements and will mainstream equality and diversity principles through its policies, procedures and processes.

4.2 The Trust aims to design and implement policy documents that meet the diverse needs of our services, population and workforce, ensuring that none are placed at disadvantage over others. It considers the provisions of the Equality Act 2010 and advances equal opportunities for all.

4.3 The Trust will endeavour to make reasonable adjustments to accommodate any employee, however there will be occasions where, after consideration, a requested adjustment cannot be accommodated. In such circumstances, the request will not be considered as reasonable by the Trust.

4.4 This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) or sexual orientation.

4.5 Due regard will also be demonstrated through the use of HR best practice and have adherence to all relevant employment legislation. In carrying out its functions, the Trust must have due regard to the different needs of different protected equality groups in their area. This applies to all the activities for which the Trust are responsible, including policy development, review and implementation.

5. ROLES AND RESPONSIBILITIES

5.1 The Trust:

- Has a responsibility to ensure that it complies with the Equality Act 2010 to the effect that staff that have an impairment or long-term health condition are not discriminated against and have reasonable adjustments made for them as required;
- Has further responsibilities to ensure that managers are made aware of their obligations towards disabled staff and are supported in fulfilling them;
- Is liable for the actions of its contractors as well as staff, regardless of whether such actions are with the express or implied authority of the Trust;
- Where an adjustment is considered reasonable, the Trust has a duty to make that adjustment, except where it did not know, and could not reasonably have known, that an adjustment is required;
- Has an anticipatory duty to make adjustments. It is not acceptable to not make provisions just because a specific need has not yet been identified. It is important to make provisions even for as yet unspecified needs. For example, processes must be in place to enable provision of information in braille, even if this has not been requested to date;
- Must also be able to show that it took such steps as are reasonable to encourage disclosure, as outlined below.

5.2 Employees:

- All staff have a responsibility to understand that people with an impairment or long-term health condition that impacts upon their daily activities, may require reasonable adjustments from their employer. Such adjustments are intended to tackle discrimination and create equality in opportunity for disabled employees, and are carefully designed so that they do not impact negatively on the work of other staff or the organisation;
- Although it is the responsibility of the Trust to take steps to find out about any need for reasonable adjustments, disabled employees have an obligation under this policy to bring to the attention of their line manager the fact that they have additional needs and to assist with the investigation and implementation of reasonable adjustments as required;
- Staff should maintain appropriate, timely communication with their line manager if they believe they have developed an illness or condition that may fall within the boundaries of the Equality Act and reasonable adjustments may be required to support them undertake their role;
- Staff responsible for organising functions, events, courses and meetings must ensure that all participants and visitors are asked if they require reasonable adjustments in advance and ensure that these are investigated and implemented

as appropriate. Those responsible for organising such events will notify those associated with the event of the reasonable adjustments required;

- Staff working in HR, Occupational Health, Health & Safety, Estates and Communications are required to consider this policy when providing reports, advice, assessments and guidance to the Trust. This includes paying due regard to any need for reasonable adjustments, adopting an inclusive approach to the employment and retention of disabled staff, promoting equality and diversity and assessing any policy and strategic developments for barriers and potential adverse impact.

5.3 Staff covered by this policy:

- The individual has a responsibility to fully co-operate with their line manager, People Hub, other employees or supporting services in order to maintain a satisfactory level of performance and attendance. The individual should commit to follow agreed adjustments. Should any issues or concerns arise then they raise this with their line manager at the earliest opportunity in order for it to be addressed as quickly as possible.

5.4 Managers:

- When notified that a member of their staff has an impairment or long-term health condition, managers should inform/involve the People Hub for advice if needed. The manager should investigate and implement any recommended reasonable adjustments in conjunction with the People Hub. Consultation and advice should also be sought from Diversity and Inclusion Lead, Occupational Health, Health & Safety Advisor, IT Advisors and Disability Enablement Focus Forum (DEFF) as well as the staff member concerned as appropriate;
- Other members of the team may need to be informed especially if the adjustment involves change of work, hours or change in work location. This should be done in consultation with the staff member concerned and conveyed in a sensitive manner, respecting the confidentiality of the staff member concerned, in conjunction with the disabled member of staff and other relevant teams across the Trust;
- Managers may also need to co-ordinate the implementation of reasonable adjustments following Access to Work, Occupational Health or other Health & Safety recommendations;
- In accordance with Mindful Employer - www.dpt.nhs.uk/mindful-employer and Disability Confident Employer - www.gov.uk/government/collections/disability-confident-campaign, a review of the effectiveness of all reasonable adjustments should be done annually as part of the Trust achievement review process.

5.5 Workforce and OD

- Have a duty to take proactive measures to encourage disclosure of all reasonable adjustments that have been agreed. This can be done through adopting positive publicity, environment and workplace culture, promotion of this policy and via the recruitment, interview, appointment or other registration processes.

5.6 Trade union representatives:

- Trade union representatives have obligations and a duty of care under this policy, that once notified that a member of staff is disabled, to take proactive measures to encourage disclosure of additional needs.

6. DISABILITY LEAVE

6.1 Disability leave is not the same as sick leave or special leave. Disability leave is considered a reasonable adjustment under the Equality Act and is distinct from sickness absence as it includes time when an employee is well but absent from work, for a disability related reason.

6.2 A maximum of six days paid leave can be requested by employees per leave year (1st April – 31st March). This should be monitored and recorded appropriately. It should be noted that this time can be take in hours or days and where necessary, can include travel time.

6.3 A Disability Leave Request Form (appendix 2) must be completed and sent to your line manager. Line managers may wish to seek advice from the People Hub when considering requests for disability leave.

6.4 Some examples of planned disability leave can be found in (appendix 3).

6.5 Where disability leave is being requested for a medical appointment, employees are requested to provide evidence of such appointments, to their line manager.

6.6 Every effort should be made not to delay the return of an individual who is fit, to return to work.

6.7 Employees must be clear that the Trust is entitled to expect a reasonable level of attendance from all staff members. Although the Equality Act will be considered when managing sickness absence, it will not automatically prevent a member of staff going through the stages of the Attendance Policy (H33).

6.8 If an employee is absent due to sickness and it becomes clear that they may now qualify for disability leave, this should be discussed with their line manager and a Disability Leave Request Form (appendix 2) should be submitted

6.9 Time spent on disability leave is counted as continuous service for all contractual benefits, including accruing annual leave, sick leave and pension rights.

6.10 Disability leave must not be included for the purposes of assessing performance, promotion, attendance, selection for redundancy and similar issues. To do so might discriminate against the employee with a disability.

6.11 Disability leave should be recorded by managers separately as disability and non-disability related absences. Absences on ESR as follows:

Line manager/ESR select the following

*Absence Type: Special Increasing Balance
* Absence reason: Disability leave
If using Health Roster- create an unavailability, the group will equal other leave and the reason should be DL – Disability leave

6.12 Line managers are expected to keep a record of the number of disability leave days taken throughout the leave year.

6.13 Appeals about the amount of disability leave allowed should be dealt with through the Trust's Grievance Procedure.

6.14 If an employee does not believe they are disabled, or does not wish to be included under the definition then disability leave does not apply.

7 RESOLUTION

7.1 Where it is apparent that the only reason the employee is dissatisfied with the existing reasonable adjustments is because the employee would have preferred an alternative adjustment but it is the line manager's opinion that this may not be effective practice, there is no reason to change the adjustment that is already in place for the employee. The sources of support and guidance can be found in Section 18.

7.2 A member of staff who is dissatisfied after reasonable adjustments have been put into place and attempts to resolve issues informally with their manager have not worked, can raise their concerns via the Trust's Grievance Policy (No. 20 TSDFT or HR01 ex-TSD).

8 EXCLUSIONS

8.1 The only circumstance that permit less favourable treatment, occurs when the employee genuinely cannot do the job for which they are employed, or any other job that may be reasonably offered, or when reasonable adjustments to the workplace are either impracticable or demonstrably beyond the resources available to the Trust.

9. TRAINING AND AWARENESS

9.1 We will communicate this policy clearly to employees at all levels of the organisation, as well as other individuals and organisations that come into contact with the Trust, such as General Practitioners, job applicants and contractors. Wherever appropriate we will ensure that contractors and other parties abide by the standards and requirements of this policy by:

9.1.1 All new employees will receive information about this policy and their responsibilities as part of their induction to the Trust.

9.1.2 Advice and support will be provided by the Equality, Diversity and Inclusion lead to support staff and managers in adhering to this policy and their understanding of dealing with reasonable adjustments.

9.1.3 The Workforce and OD team will raise awareness of this policy through the publication of information on ICON and to advise staff of changes to the policy through the staff bulletin and ratification processes

SECTION TWO - Process of establishing Tailored Reasonable Adjustment

10 CONFIDENTIALITY

10.1 Staff who are made aware of a colleague's impairment of health condition(s) in confidence must:

- Advise the colleague to discuss their needs with their line manager, or other departmental manager, drawing their attention to this policy and other appropriate documents and corporate commitments;
- Advise the staff member of other sources of support available (such as Employee Assistance Programme (EAP), Occupational Health, Trade Unions or Professional Bodies, Staff Disability Network and coaching);
- A breach of confidentiality can only occur where the disabled person's own safety is at risk, where the safety of others is at risk, or where a failure to disclose may result in criminal activity (relevant policies include data protection policy);
- The Trust recognises that in some situations other colleagues may become aware of a staff members impairment or health condition that requires a reasonable adjustment to be made (regardless of whether or not there will be an outcome of a reasonable adjustment). Should this be the case, then the information must be treated as confidential and cannot be forwarded to a third party without the consent of the staff member concerned. This is because the impairment/health condition of the staff member is classed as 'special' category data under the General Data Protection Regulation (GDPR, EU, 2016679, Data Protection Act 2018).

11 IDENTIFICATION OF REASONABLE ADJUSTMENTS

11.1 New and existing staff may not declare they are disabled or that they have a long-term health condition because:

- They feel that they will not get a job, training, development or promotion;
- Their impairment is hidden and they feel embarrassed about bringing it up because it may be seen as trivial;
- Previous negative experiences in employment have left them worried about raising it;
- They may not like to ask for help or feel that they can manage and want to fit in and not make a fuss;
- They are scared of losing their job;
- They think that they will be received unsympathetically or be told to 'just get on with it'.

11.2 The anticipatory duty placed upon the Trust requires staff to take reasonable steps to find out whether reasonable adjustments are needed. Such steps might include:

- Recruitment stage (pre-appointment): applicants will be asked if they require any reasonable adjustments to enable them to attend their interview for a specific post;
- Asking all staff on appointment within the Trust if they have any additional needs as a result of an impairment and/or health conditions. A clear explanation of why such

information is sought, who else will see or have access to the information, what will be done with the information and how it will be used to trigger follow up support/adjustments, should be provided. Rather than asking staff to identify if they are disabled, it is more appropriate to ask if a member of staff may need adjustments and what they may be;

- An example statement for use verbally or in written communications is: "*The Trust aims to be an equal opportunities and diverse employer. Please let us know if you have any access needs regarding premises, information, communication media or with regard to participating in our processes, services and events"*;
- Providing on-going opportunities for disclosure since many new staff may be hesitant to disclose additional needs at the start of employment. This might be done through annual achievement review meetings and through supervision, team meetings, ICON, email or the weekly bulletin;
- The Trust is a member of the Disability Confident Scheme and has a disabled staff group called Disability Enablement Focus Forum (DEFF) that aims to promote disability within the workforce and mentor new members of staff on appointment to the organisation if the member of staff requests this;
- Projecting a clear welcoming message to the public and staff through a variety of ways including recruitment, Trust Annual Reports, website and using appropriate language in all written materials and showing positive images of disabled people;
- In compliance with the Equality Act (2010), ensuring Trust-wide promotion of equal opportunities for all and positive attitudes towards disabled people, as well as elimination of unlawful discrimination and harassment;
- Signpost staff during induction and core mandatory training to key aspects of the policy in context of Equality & Human Rights awareness.

11.3 An employee who wishes to raise their requirement for reasonable adjustments can be signposted to their manager in the first instance. Further information can be found in the Frequently Asked Questions (appendix 4). Other useful contacts may include:

- Equality and Diversity Lead
- The People Hub
- Trade Union representatives
- Health and Wellbeing Lead
- Professional Body's contacts
- Freedom to Speak Up Guardians (F2SU)

11.4 Action to be taken when notified a person has additional needs. Under this policy all staff who are notified that a person is disabled and requires reasonable adjustments to be made, the manager has a duty either to:

- Investigate and implement such adjustments when reasonable to do so (if they are in a position of manager/event organiser/facilitator for that employee)
- If an employee would like to explain the areas in which they require reasonable adjustments before discussing this in detail with their manager, the manager could provide the employee with a blank Disability Passport template to assist them in the exercise (appendix 5)

11.4.1 An objection may have been made by the disabled employee, if it has not been possible to agree a reasonable adjustment. It is the line manager's responsibility to investigate them and implement them as fully as possible, taking advice from the range of sources given below and in accordance with any request for confidentiality. Refusal to make an adjustment, or any decision to substitute a request for a specific adjustment for an alternative one, must be explained in full and in writing to the next level of management. They will have the responsibility for the final decision on the appropriate course of action.

11.4.2 It is important to remember that only an Employment Tribunal has the authority to determine whether a person's impairment or health condition affords them protection under the law.

11.4.3 When determining the kind of adjustments that might be both reasonable and appropriate, managers may wish to take advice from:

- The staff member, who will know their own needs, and in most case the kinds of adjustments that will be most effective;
- Occupational Health who may provide a report of recommendations regarding working environment and practices;
- Health & Safety – it is the manager's responsibility to complete risk assessments with advice from H&S as required;
- Department of Work & Pensions, Access to Work (see sections 13 & 14 or www.gov.uk/access-to-work)

11.5 Making reasonable adjustments:

11.5.1 The Equality Act does not provide employers with a complete list of adjustments as adjustments will vary and be specific to each member of staff depending on their experience of their impairment and the type of work they carry out. Subsequently, there is no 'one size fits all' method to use. Examples of reasonable adjustments may include but are not limited to:

- Flexible working hours, location or distribution of duties;
- Disability leave or reasonable time off for assessment, rehabilitation, treatment or counselling;
- Adjustments to premises to enhance access for individuals with physical or sensory impairments, mental health or learning needs or health conditions such as epilepsy or diabetes;
- Acquiring or modifying equipment, e.g. magnifier, induction loop, desk lamp, larger PC screen, adjustable height furniture, voice activated software or a telephone adapted with an amplifier;
- Providing additional training;
- Providing additional supervision or mentoring;
- Transcribing or modifying instructions, e.g. accessing formats for written documentation/electronic documents;
- Modifying procedures for testing or assessment;
- Providing a reader or interpreter;

- Allowing the person to work in a private room if open-plan office is not ideal;
- Redeployment of an employee into a suitable alternative role. Please refer to the Attendance Management Policy (H33) and Organisational Change Policy (H29);
- Allowing extra breaks for staff who suffer with fatigue;
- Moving a work base if breathlessness makes it difficult to climb the stairs.

11.5.2 In defining what is reasonable for the purposes of the Equality Act, only a court or employment tribunal can confirm this. In doing so, they will consider the following factors:

- The effectiveness of the adjustment in preventing the disadvantage;
- The practicality of the step;
- The financial and other costs to the Trust;
- The extent of any disruption causes;
- The extent of the Trust's finances and other resources;
- The extent of financial assistance that might be given to the Trust through, for example the Access to Work Scheme;
- The impact on other staff;
- Any prescribed standards or professional requirement for the role;
- Adjustments made for other disabled staff;
- The extent to which the disabled person is willing to co-operate.

12 TAILORED REASONABLE ADJUSTMENT AGREEMENT

12.1 A tailored reasonable adjustment agreement (appendix 6) is a living record of reasonable adjustments agreed between a disabled employee and their line manager. The purpose of the agreement is to:

- Ensure that both parties - the individual and the manager, have an accurate record of what has been agreed;
- Minimise the need to re-negotiate reasonable adjustments every time the employee changes jobs, is relocated or assigned a new manager within the organisation;
- Provide the employee and their line manager with the basis for discussion about reasonable adjustments during future meetings.

12.2 A tailored reasonable adjustment agreement should be completed within three months of the disability being highlighted to management. The agreement is a living document and should be reviewed regularly by both the employee and manager and amended as appropriate by either side. Expert advice from third parties, such as Occupational Health, Access to Work (see section 13 below for further information) or Remploy (see section 14 below for further information) may be needed before changes can be agreed and implemented.

12.3 New line managers of employees with tailored reasonable adjustment agreements should accept the adjustments outlined in the agreement as reasonable and ensure that they continue to be implemented. The agreement may need to be reviewed and amended at a later date but this should not happen until both parties have worked together for a reasonable period of time.

12.4 The agreement allows the line manager to:

- Explain the needs of the business or organisation;
- Explain the Trust's Attendance Policy (H33) and this Reasonable Adjustments Policy (ED4);
- Recognise signs that an employee might be unwell and know what the employee wants to do in these circumstances, including who to contact for help;
- Know how and when to stay in touch if the employee is off sick;
- Consider whether or not the employee needs to be referred for an assessment to Occupational Health to help both parties understand what adjustments are needed;
- Review the effectiveness of the adjustments already agreed including the continuing need for such arrangements.

12.5 A template for the recording of a tailored reasonable adjustment agreement can be found in (appendix 6). The completed Disability Passport is held by the employee and can only be shared with their consent. This dealt with in detail in section three of this policy and a template is found in (appendix 5)

12.6 When a reasonable adjustment has been agreed the line manager is requested to fill in the Workforce Monitoring Online Form which can be found on the Workforce pages on ICON.

12.7 Review of fitness for purpose - it is important to remember that a reasonable adjustment that has worked effectively for many years may stop being as effective as the persons impairment or health condition changes, or the nature of the work itself changes. It is equally important to remember that two people with the same impairment may require different reasonable adjustments to be made.

12.8 It is recognised that in some cases an adjustment may be put in place, which the person with the responsibility to do so believes is effective, but which the disabled member of staff feels is not adequate. In this situation, the line manager should take the following action:

- Review the effectiveness of the adjustment to identify concerns (if any);
- Discuss alternatives that could address the difficulties identified;
- Seek specialist advice from internal and external sources;
- Implement new reasonable adjustments if relevant;
- Review the effectiveness on a regular basis. A review must take place at least every 12 months or more frequently if appropriate.

12.9 A copy the agreement is to go on the employee's personal file – it contains a brief overview and less personal health and impairment information than the Disability Passport.

12.10 An anonymised copy of the agreement, when signed off, is sent to the Electronic Staff Records Team for data collection purposes.

13 ACCESS TO WORK

13.1 Is a government run programme delivered by Jobcentre Plus to help overcome barriers that disabled people come across when moving into or retaining employment. It is provided where the employee requires support or adaptations beyond those “reasonable adjustments” which an employer is legally obliged to provide under the Act. It is not there to duplicate funding available from other sources and it is a flexible programme that focuses on the needs of the individual

13.2 Access to Work will fund a Vocational, Ergonomic and/or technology and equipment assessment of need for the employee that is undertaken by an appropriate impairment or medical specialist, and that recommends solutions to any potential barriers. In most cases, Access to Work will fund whole or part of these recommendations

14 WORKPLACE MENTAL HEALTH SUPPORT SERVICE - REMPLOY

14.1 This is a free confidential service, delivered by Remploy and funded by the Department for Work and Pensions is available to any employees with depression, anxiety, stress or other mental health issues affecting their work.

14.2 Specialist advisors providing:

- Tailored, work-focused mental health support for six months;
- Suitable coping strategies;
- A support plan to keep employees in, or return to work;
- Ideas for workplace adjustments to help employees fulfil their role;
- Practical advice to support those with a mental health condition.

15 ACTION TO BE TAKEN WHEN HEALTH AND SAFETY LEGISLATION CONFLICTS WITH THIS POLICY

15.1 The Health and Safety at Work Act (1974) and related regulations are prioritised above the Equality Act (2010) in that employers are not expected to place disabled and other staff at inappropriate risk. The Act does not require consideration of any potential reasonable adjustments that, if implemented, might lessen the risks posed.

15.2 All advice has to be reviewed carefully to ascertain the extent to which an adjustment might mitigate or reduce risk, even apparently hazardous situations may be managed with reasonable adjustments by, for example, adapting procedure, purchasing equipment or providing additional training. The reasonable adjustment process itself may provide opportunities to consider and, where possible, implement, reasonable adjustments to remove or reduce unacceptable risk. If after attempting all reasonable adjustments, it is found that unacceptable risk still remains and a risk assessment is required, it is important to ensure that it:

- Focusses on facts and not assumptions;
- Assesses the individual and avoids blanket assumptions;
- Involves the member of staff in discussions to identity how any risk may be overcome;

- Applies best medical evidence on prognosis, and associated hazards and risks as this impact upon the individual;
- Related to the individual and the requirements of the job;
- Considers all relevant occupational factors;
- Identifies the actual duration and frequency of hazardous situations.

15.3 Where a risk remains substantial in spite of any control measures and adjustments being implemented, alternative reasonable adjustment may be redeployment to another suitable alternative post where the risk does not arise. Any such decision however, must be in consultation with the member of staff, line manager, the People Hub and Occupational Health. The disabled person has the right to representation if he/she wishes. Redeployment should be to a position where the disabled person has a reasonable chance of fulfilling all core duties of the new role and where there is provision for retraining prior to assuming the new duties if this is required.

15.4 If the risk is insubstantial in that there is no adverse impact on others and only to a minimal degree on the disabled person him/herself and the member of staff states that they are happy to continue working, their wish should be respected where possible. As an employer, the Trust is expected to as far as is reasonably practicable to do all it can to eliminate risk in the workplace, but the law does recognise that all risks cannot be removed absolutely. In this instance, explicit informed consent in writing by the disabled member of staff is essential and a copy of this must be kept in his/her personal file, with signatures of the member of staff, his/her man

SECTION THREE

16 THE DISABILITY PASSPORT

16.1 The Disability Passport (appendix 5) is held by the employee and shared with managers with the consent of the employee. It allows an employee to:

- Explain the impact of their disability at work;
- Describe adjustments that will make it easier for them to do their job;
- Assist further information from their GP, specialist or other expert to be obtained;
- Request an assessment by Access to Work or Remploy;
- Review the effectiveness of the adjustments agreed;
- Explain any change in circumstances;
- Be reassured that their line manager knows what to do if the employee becomes unwell at work and who to contact if necessary.

16.2 The Disability Passport agreement allows the line manager to:

- Understand how a particular employees disability affects them at work;
- Explain the needs of the business or organisation;
- Explain the Trust's Attendance Policy (H33) and this Reasonable Adjustment Policy (ED4);
- Recognise signs that an employee might be unwell and know what the employee wants to do in these circumstances, including who to contact for help;
- Know how and when to stay in touch if the employee is off sick;
- Consider whether or not the employee needs to be referred for an assessment by Occupational Health, or another adviser to help both parties understand what adjustments are needed.

17 REFERENCES

17.1 NHS Employers;
Reasonable Adjustments Disability Passports - published by Trades Union Congress and GMB – www.tuc.org.uk
EHTC – www.equalityhumanrights.com
Reasonable Adjustment Policy - published by Leicestershire Partnership NHS Trust

18 FURTHER INFORMATION AND SUPPORT

16.1 Any queries regarding this policy should be directed to the Diversity and Inclusion Lead of the Directorate of Workforce and OD. Alternatively, the following contacts may be found to be useful:

- Diversity & Inclusion Lead – 01803 656705 (ext. 56705) or debbie.maynard@nhs.net
- People Hub – tsdft.humanresources@nhs.net or 01803 655754 (ext. 55754)

- Employee Assistance Programme – 0800 031 4674 or go to https://tsdft.optimise.health/
- Trade Union/Professional Organisation Accredited representative
- Freedom to Speak up Guardians - tsdft.guardian@nhs.net
- Diversity & Inclusion Guardians - tsdft.equalguard@nhs.net
- Department of Work & Pensions – www.dwp.gov.uk
- Equality and Human Rights Commission – www.equalityhumanrights.com
- Remploy Disability Guide – www.remploy.co.uk/employers/resources/disability-guide
- Remploy Workplace Mental Health Support Service – www.remploy.co.uk/about-us/current-programmes/workplace-mental-health-support-service
- Access to Work Programme – 0800 1217479 or atwosu.london@dwp.gsi.gov.uk or www.gov.uk/access-to-work
- Macmillan Cancer Information – www.macmillan.or.uk

19 MONITORING, AUDIT AND REVIEW PROCEDURES

19.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the Directorate of Workforce and Organisational Development, unless legislative changes determine otherwise.

20 APPENDIX 1: Understanding Disability

1. When is a person disabled?

A person has a disability if he/she has a physical or mental impairment, which has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities.

2. What conditions/impairments are covered by the Act?

With the exception of cancer, HIV and multiple sclerosis, there is no definitive list of conditions/impairments which are covered by the Act. Each case must be considered individually, based on the definition given above taking into consideration the effects of the impairment on the individual. The definition might include, for example, people with the following:

- Sensory impairment (vision and hearing);
- Heart conditions;
- Musculoskeletal conditions such as back problems;
- Recurring or fluctuating conditions, such as arthritis or asthma;
- Mental health problems such as depression;
- Epilepsy;
- Dyslexia;
- Diabetes;
- Severe disfigurements;
- Learning disabilities.

Please note, individuals who are registered as blind or partially sighted by a local authority, or who are certified as being blind or partially sighted by a consultant ophthalmologist are automatically treated under the Act as being disabled. If an individual has been disabled in the past due to a condition from which they have since recovered or from which they are in remission, then they are still protected from discrimination, victimisation or harassment by the Act.

3. People who have recovered from a disability?

People who have had a disability within the definition are protected from discrimination even if they have since recovered.

4. What does 'impairment 'cover?

Impairment covers physical or mental impairments; this includes sensory impairments, such as those affecting sight or hearing.

5. Are all mental impairments included?

The term 'mental impairment' is intended to cover a wide range of impairments relating to mental functioning, including learning disabilities.

6. What is a 'substantial 'adverse effect?

A substantial adverse effect is something which is more than a minor or trivial effect. The requirement that an effect must be substantial reflects the general understanding of disability as a limitation going beyond the normal differences in ability which might exist among people.

7. What is a 'long term' effect?

A long-term effect of an impairment is one:

- Which has lasted at least 12 months or
- Where the total period for which it lasts is likely to be at least 12 months, or
- Which is likely to last for the rest of the life of the person affected.

Effects which are not long-term would therefore include loss of mobility due to a broken limb which is likely to heal within 12 months and the effects of temporary infections, from which a person would be likely to recover within 12 months.

8. What if the effects come and go over a period of time?

If an impairment has had a substantial adverse effect on normal day-to-day activities but that effect ceases, the substantial effect is treated as continuing if it is likely to recur; that is if it is more probable than not that the effect will recur.

9. What are normal day-to-day activities?

They are activities which are carried out by most people on a fairly regular and frequent basis. The term is not intended to include activities which are normal only for a particular person or group of people, such as playing a musical instrument, or a sport, to a professional standard or performing a skilled or specialised task at work. However, someone who is affected in such a specialised way but is also affected in normal day-to-day activities would be covered by this part of the definition. The test of whether an impairment affects normal day-to-day activities is whether it affects one of the broad categories of capacity listed in Schedule 1 of the Act:

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

10. What about treatment?

A member of staff with an impairment may be receiving medical or other treatment which alleviates or removes the effects (though not the impairment). In such cases, the treatment is ignored and the impairment is taken to have the effect it would have had without such treatment. This does not apply if substantial adverse effects are not likely to recur even if the treatment stops (i.e. the impairment has been cured). Members of staff requiring treatment for an impairment must be allowed time off work to attend. This must be recorded as disability related absence and not counted as sickness absence.

11. What about someone who wears spectacles?

No. The sole exception to the rule about ignoring the effects of treatment is the wearing of spectacles or contact lenses. In this case, the effect while the person is wearing spectacles or contact lenses should be considered.

12. Disfigurements included?

People with severe disfigurements are covered by the Act. They do not need to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities.

13. Who else is automatically treated as disabled under the Act?

Anyone who has or is:

- HIV Infection;
- Cancer;
- Multiple Sclerosis;
- Is registered blind/partially sighted;
- Or certified as blind/partially sighted by a consultant ophthalmologist.

People who are not registered or certified as blind or partially sighted will be covered under the Act if they can establish that they meet the Act's definition of disability.

14. Progression of condition

Conditions that are likely to change and develop over time are progressive. If a person has a progressive condition they will be covered by the Act from the moment the condition leads to an impairment which has some effect on ability to carry out normal day-to-day activities, even though not a substantial effect, if that impairment is likely eventually to have a substantial adverse effect on such ability.

15. Are genetic conditions covered?

If the condition has no effect on their ability to carry out normal day-to-day activities, the person is not covered.

16. Which conditions are specifically excluded from the coverage of the Act?

- Addiction to or dependency on alcohol, nicotine, or any other substance (other than a substance being medically prescribed);

- Seasonal Rhinitis (hay fever), except where it would aggravate another condition;
- Tendency to set fires;
- Tendency to steal;
- Tendency to physical or sexual abuse of other persons;
- Exhibitionism;
- Voyeurism.

Also included are disfigurements which consist of a tattoo (which has not been removed), non-medical body piercing, or something attached through such piercing. These are treated as not having a substantial adverse effect on the person's ability to carry out normal day to day activities (Duty to promote disability equality: statutory code of practice)

21 APPENDIX 2 – Disability Leave Request Form

To be completed by member of staff

Name	Service
Number of days/hours requested	Date(s) of Requested Absences:
Number days taken to date in current year (1st April – 31st March)	Reason for current request:
Signed:	Date:

For Completion by Line Manager

Disability Leave requested above granted Yes ☐ No ☐

If no please give details below

Total number of paid hours granted ☐ Previous entitlement taken ☐

Recorded on Special Leave Record Sheet/E Roster ☐

Name of Manager: _____

Job Title: _____

Signed: _____

Date: _____

Note: If extended disability leave is being requested above the entitlement of 6 days (45 hours - pro rata for part time) staff please send this form to Head of Service for approval. If you have any queries please contact the People Hub in the first instance for support/advice.

Copies of the completed form should be sent to your line manager.

22 APPENDIX 3: Examples of Disability Leave

- Hospital, doctors or complementary medicine practitioner's appointments (by accredited practitioners);
- Hospital treatment as an outpatient;
- Assessment for such conditions as dyslexia and dyspraxia etc;
- Hearing aid tests;
- Training with a guide dog or hearing dog;
- Counselling/therapeutic treatment;
- Patient education;
- Self-management education;
- The adjustment/mending of technical aids;
- Orthotics;
- Orthoptics;
- Occupational Therapy;
- Physiotherapy;
- HOPE Programme attendance;
- Speech & Language Therapy.

23 APPENDIX 4: Frequently Asked Questions

What is a reasonable adjustment?

A reasonable adjustment is an alteration that an employer could make that would enable a disabled person to continue to carry out their duties without being at a disadvantage compared to others. Under the Equality Act 2010, there is a legal duty on employers to make these reasonable adjustments for disabled employees.

How do I know if I am a disabled person according to the law?

The Equality Act 2010 says that a disability is a physical or mental impairment, which has a substantial and long-term adverse effect on your ability to carry out normal day-to-day activities. This definition includes impairments or medical conditions such as Cancer, HIV or MS.

What does a reasonable adjustment include?

A reasonable adjustment may include' provisions', criteria and 'practices, 'physical features' and 'provision of auxiliary aids'.

The code of practice for (employment) for the Equality Act gives the following examples of reasonable adjustments:

- Making adjustments to premises;
- Allocating some of the disabled person's duties to another person;
- Transferring them to fill an existing vacancy;
- Altering their working hours;
- Allowing absence for rehabilitation, absence or treatment;
- Arranging or giving extra training;
- Acquiring or modifying equipment;
- Modifying instructions or reference manuals;
- Modifying procedures for testing or assessment;
- Providing a reader or interpreter;
- Providing supervision.

What is the purpose of an adjustment?

The purpose of implementing an adjustment for you is to ensure that you are able to perform to the best of your ability. This applies to whether an adjustment is made during the recruitment process or in the workplace itself.

What type of support is available to me if I have a disability?

The Trust will offer a range of support to disabled members of staff. The extent of this support will be dependent on the needs and circumstances of each individual, who would be consulted on any reasonable adjustments which may need to be made. Not everyone with the same disability are likely to need the same adjustments. All adjustments will be considered on a case-by-case basis.

Access to Work, who are able to assess an individual within the workplace and recommend reasonable adjustments may be used in some cases. You can also contact your line manager or People Hub for further advice and support.

If your condition changes?

Your condition may change over time and with that the support you need. It is important that you continue to be open and honest about what you need and that you engage in the relevant discussions to fulfil your role.

What is Access to Work?

This is a scheme which is run by Jobcentre Plus. It can provide disabled people with financial support to help with increased costs for things such as travelling to work by taxi instead of using public transport, paying for a support worker, paying for specialised equipment or for physical alterations to the employer's premises.

Access to Work may also be able to help if a disabled person needs a communicator or BSL interpreter at a job interview.

Am I eligible for Access to Work?

If you are disabled and feel that you may need help through Access to Work you will need to be:

- Already working in paid employment;
- Unemployed and about to start a new job;
- Unemployed and about to start a work trial;
- Self-employed.

Your impairment must stop or prevent you from being able to do parts of your job or the job you have applied for. It may be that your impairment does not have a big effect on what you can do every day but it must be a long-term effect rather than something short-term like a broken arm.

How do I contact Access to Work?

If your employment is likely to be affected by your impairment and the impairment is likely to last for at least 12 months, contact you line manager or the People Hub.

Access to Work Operational Support Unit
Alexandra House
377 Cowbridge Road East
Cardiff
CF5 1WU

What adjustments are the Trust legally required to make for disabled candidates and employees?

An employer has a duty to make 'reasonable adjustments'. What is deemed reasonable depends on the individual case and circumstances, including how necessary the adjustment is, how practical it is, and the financial or other resources of the organisation.

Who is responsible for implementing adjustments during the recruitment process?

This is the responsibility of the organisation and the individual. Both parties have to communicate what is required and there is a need for an open, honest and timely process.

Do I have to tell my employer that I need an adjustment?

Understandably you may not wish to disclose the nature of your disability. However, unless there is an open and honest discussion it would be difficult for the Trust to provide what you need to do your job. If you do not wish to disclose the nature of your disability you could instead only discuss the impact of your condition on your ability to undertake the role. Whilst employers would encourage you to share so that maximum support can be offered, there is no obligation on you to disclose either the nature or the impact of your condition.

Who pays?

The law forbids the employer from making a disabled worker pay for any of these adjustments and financial assistance may be available from the Government for the employer under access to work funding, if the employee qualifies for it.

What is disability leave.

A person with a disability/long term condition should have their disability leave recorded as a distinct and separate thing, and it can be requested for as a reasonable adjustment.

24 APPENDIX 5: Disability Passport

Reasonable Adjustments Disability Passport

A model Reasonable Adjustments Passport

The information provided in the reasonable adjustment passport is confidential to the worker and their line manager and People Hub. It should not be shared with anyone without the written consent of the worker.

A copy of the passport should be held by both the worker and their manager and, if appropriate, the People Hub.

Name of employee:	
Payroll number:	
Employee's signature:	Date:
Name of line manager:	
Managers signature:	Date:
Team/Department:	
Integrated Service Unit:	

Reasonable adjustments details

My health condition or impairment interacts with barriers within and/or outside the workplace to create the following impact(s) on me at work:

This could include:

- effect on co-ordination, dexterity, or mobility;
- effect on mental health;
- effect on hearing, speech or visual impairment;
- effect on my ability to interact socially with colleagues;
- effect of particular working environments (for example open-plan offices);
- attending medical or counselling appointments*.

An example of a response might be:
'If my role requires me to stand for long periods of time, then this will create a barrier for me due to my co-ordination/dexterity/mobility condition.'

The following reasonable adjustments have been agreed between me and my manager:

Has any additional advice been given or requested?
If so, from whom and what date was it requested/given (please attach any relevant information to the back of this document):

Date of implementation:

My condition or impairment and work

Please complete this section if you have a fluctuating condition:

On a good day, I believe that my disability or condition interacts with barriers within or outside the workplace to have the following impact on me at work:

When things are not so good, I believe that my disability or condition interacts with barriers within or outside the workplace to have the following impact on me at work:

Therefore, I might need the following further reasonable adjustments:

Further reasonable adjustments needed:

Emergency contacts

Below is a section for **optional** emergency contact details.

You are under no obligation to provide these details but can choose to fill out contact details for **one, none or all** of the suggested boxes or provide contact details for groups not suggested here.

If I am not well or there are any urgent concerns about my wellbeing, I am willing for my manager/management to contact any of the following emergency contacts in the order of preference indicated below.

(Please add, amend or delete contact types as appropriate or when there are any changes.)

Relative, partner or family member (preference number: ……**)**

Name: _____

Relationship to you: _____

Telephone No - Home: _____ Mobile: _____

Relative, partner or family member (preference number: ……**)**

Name: _____

Relationship to you: _____

Telephone No - Home: _____ Mobile: _____

Friend (preference number: ……**)**

Name: _____

Relationship to you: _____

Telephone No - Home: _____ Mobile: _____

Specialist/care co-ordinator/support worker/general practitioner/nurse (preference number: ……**)**

Name: _____

Relationship to you: _____

Telephone No - Home: _____ Mobile: _____

Other (please specify): _____ **(preference number:** ……**)**

Name: _____

Relationship to you: _____

Telephone No - Home: _____ Mobile: _____

Review

I believe there have been the following changes in my condition/ impairment (and/or changes to my situation which impact on my condition/ impairment) and require the following changes to be made to the current agreed adjustments:		
Review date	**Line manager's signature**	**Employee's signature**

The passport and agreed reasonable adjustments should be reviewed six months after the worker's adjustments have been put in place to ensure they are removing any identified workplace barriers. Where they have not been put in place or have not proved to be useful to the worker, this meeting would ensure adjustments can be actioned or new adjustments could be agreed.

Further reviews will be at the worker's request, or if there is any change to a worker's job, which might create additional barriers, to ensure the adjustments are still appropriate and effective in eliminating workplace barriers.

The worker has the right to be accompanied by their union rep at these review meetings.

Acknowledging and thanking the TUC and GMB Union for their original document

25 APPENDIX 6: Tailored Reasonable Adjustment Agreement

		Tailored Reasonable Adjustments			
Employee		Manager	Detail of Disability/Long term condition		Date
Date	Concern/Barrier – identified by employee/manager	How does this impact on the employee in maintaining their role at work?	What adjustment would help?	Agreed Actions	Review date/by whom
	Signature Manager: Signature Employee:		Date: Date:		

"When completed don't forget to fill in the online form on the Workforce Systems ICON page and use the Reasonable Adjustment form link"

https://icon.torbayandsouthdevon.nhs.uk/areas/workforce-information/Pages/Reasonable-Adjustments.aspx

This agreement is Private & Confidential it should only be shared with new managers with the express consent of the employee.

This agreement may be reviewed and amended as necessary with the agreement of both parties:

- Supervision
- Return to work meeting following sickness absence
- Annual Achievement Review
- Before change of jobs or duties or introduction of new ways of working or new technology
- Before or after any change in circumstances for either part