

Equality in Employment Procedure

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Document History

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1.0	22.1.14	New Procedure	K Ilett
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1.2	30.11.2020	Minor amend to refer to check-in process and reformat document to accessible version	K Williams
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1. Our policy

1.1 Luton Council is committed to:

- exceeding its requirements to promote equality of opportunity
- being at the forefront of valuing diversity in terms of our workforce
- taking proactive positive steps to make its workplace a fair environment
- working hard to reduce disadvantage, discrimination and inequality
- ensuring it meets legal requirements in accordance with the Equality Act 2010.

1.2 The Equality in Employment procedure supports the council's responsibilities in relation to the public sector equality duty under section 149 of the Equality Act 2010. This duty states that a public authority must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The nine protected characteristics are:
 - age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy and maternity
 - race
 - religion or belief
 - sex
 - sexual orientation

1.3 The council will, where required, carry out an Integrated Impact Assessment (IIA), to enable services to think carefully, at an early stage, about the potential impact of a policy/procedure or service change on different groups, communities and neighbourhoods.

2. The purpose of this procedure

2.1 The Equality in Employment procedure supports the council's wider equality agenda through encouraging the development of a diverse workforce which reflects the community it services and its diversity profile, where employees understand and promote equality, and where equality is part of management culture.

2.2 This procedure should be read in conjunction with other council procedures (such as [Unfair Discrimination, Harassment and Bullying procedure](#), [Sickness Absence procedure](#), Health and Safety policy, Recruitment procedure and guidance on the process for making reasonable adjustments for people with disabilities see Appendix 1 below). It also supports the principles contained in the [council's Equality Charter found here](#).

2.3 The procedure applies to all employees other than those in schools operating under the scheme of financial delegation.

2.4 The council recognises the unique contribution each employee can make and will promote a climate of respect for all, requiring employees to treat each other with fairness, dignity and respect.

- 2.5 The council will oppose any form of discrimination against job applicants or employees on the grounds of age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation, marriage or civil partnership status, trade union activity or responsibility for dependents.
- 2.6 The council will ensure all employment policies and practices, including recruitment and selection, learning and development, promotion and pay, are non-discriminatory, in line with relevant employment legislation and best practice.

3. The principles of this procedure

3.1 Managers are responsible for ensuring compliance with the procedure and will ensure employment decisions are based on job related, objective criteria, particularly when

- recruiting employees
- making decisions about work-related opportunities, promotion and pay issues
- managing employee performance through the check-in process or personal performance assessments
- allocating training opportunities to employees
- managing pregnant employees and employees with dependent care responsibilities
- managing change, including reorganisations and restructures
- managing requests for flexible working and paid or unpaid leave
- managing attendance and/or absence issues.

(Managers should refer to the relevant procedures and toolkits for each of the above activities for further details and guidance - these can be accessed via the council's intranet site or from Human Resources)

3.2 Employees are responsible for ensuring compliance with this procedure and must not

- unfairly discriminate against colleagues, or job applicants
- encourage colleagues to treat others unfairly or to practice discrimination
- victimise people who have made allegations or complaints of discrimination or who have been witnesses in cases of discrimination.

3.3 Human Resources are responsible for

- ensuring employment policies, procedures and practices reflect relevant employment legislation and best practice and are assessed for their equalities impact, and
- providing advice on the application of this procedure to managers and employees.

3.4 Employees have the right not to be victimised or treated less favourably because they have made a complaint about discrimination during either present or previous employment, or have assisted someone else's complaint by giving evidence.

3.5 The council is committed to the monitoring and evaluation of equality data to measure the impact of procedures and practices in the workplace, and to put into place action plans where necessary.

4. Failure to comply with Luton Council's Equality in Employment procedure

- 4.1 Job applicants who feel they have been subject to unfair discrimination can make a complaint under the council's Recruitment procedure.
- 4.2 An employee who feels he/she has been subject to unfair discrimination are encouraged, in the first instance, to raise the issue informally with his/her line manager, or formally under the council's Unfair Discrimination, Harassment and Bullying procedure.
- 4.3 Employees who are alleged to have committed an act of unfair discrimination may be liable to disciplinary action in accordance with the council's Disciplinary procedure.
- 4.4 Employees who commit an act of unjustified or unlawful discrimination, or allow discrimination to occur without taking appropriate action, may also be liable to a claim being brought against them by the victim in the Civil Court.

5. Advice and guidance

- 5.1 See Appendix 1 for guidance regarding support for employees with a disability, who may require a reasonable adjustment.
- 5.2 All employees have the right to consult their Trade Union representative or Human Resources.
- 5.3 For further advice and guidance on the implementation of this procedure contact Human Resources.
- 5.4 The council will aim to provide information in alternative formats on request.

Appendix 1 - Supporting employees with disabilities

1. Definitions

- 1.1 The Equality Act 2010 has made it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.
- 1.2 A disability can arise from a wide range of impairments that can be
- sensory impairments, such as those affecting sight or hearing
 - impairments with fluctuating or recurring effects such as rheumatoid arthritis, myalgia encephalomyelitis (ME)/chronic fatigue syndrome (CFS), fibromyalgia, depression and epilepsy
 - progressive, such as motor neurone disease, muscular dystrophy, forms of dementia and lupus (SLE)
 - organ system specific, including respiratory conditions, such as asthma, and cardiovascular diseases such as angina and gastro intestinal conditions such as crohn's disease
 - diabetes
 - developmental, such as autistic spectrum disorders (ASD), dyslexia and dyspraxia
 - learning difficulties
 - mental health conditions and mental illnesses, such as depression, schizophrenia, eating disorders, bipolar affective disorders, obsessive compulsive disorders, as well as some personality disorders and self-harming behaviour
 - produced by injury to the body or brain.
- 1.3 The following people are deemed to meet the definition of disability without having to show that they have an impairment that has, (or is likely to have) a substantial, adverse, long-term effect on their ability to carry out normal day-to-day activities
- a person who has cancer, HIV infection or multiple sclerosis
 - a person who is certified as severely sight impaired or sight impaired by a consultant ophthalmologist, or is registered as such with a local authority.
- 1.4 The list is not exhaustive, and Occupational Health or Human Resources can advise further regarding definitions.

2. Employees with acquired disability

- 2.1 The council will support and retain, wherever possible, any employee who acquires a disability. The employee, who has the right to be represented, will be invited to a meeting to discuss, in confidence, any reasonable adjustments required.

3. Reasonable adjustments

- 3.1 Employees are encouraged to advise managers and colleagues of their disability to both raise awareness in their workplace and to ensure positive support. However, the council is also aware that the employee has a right to privacy.
- 3.2 The duty to make adjustments only applies if the employer knows, (or should reasonably be expected to know) that the employee is disabled. Declarations made in confidence to

Occupational Health do not constitute disclosure to the council as the employer unless the circumstances as outlined in paragraph 4.1 apply.

- 3.3 Disabled employees are responsible for informing the council, (usually their line manager/supervisor) that they have a disability as defined by the Equality Act 2010 (see paragraph one), and should discuss with the manager if they need any reasonable adjustment.
- 3.4 Occupational Health will provide, where appropriate, advice to managers, where a reasonable adjustment may need to be considered for new starters.

4. Disclosure of information

- 4.1 Occupational Health Advisers are bound by their profession to maintain medical confidentiality, and will only disclose information regarding an employee if authorised to do so, or where there is a grave risk to the health and safety of the employee and/or others. Health and Safety and Human Resources will only disclose essential information regarding an employee's disability to the line manager if they are authorised to do so by the employee or, to protect the health and safety of the employee and/or others, or where there would be a breach of council policy.

5. Employer responsibilities

- 5.1 The council has a duty to ensure a safe working environment that promotes the physical and psychological wellbeing of all employees.
- 5.2 Those employees who use Display Screen Equipment (DSE) must regularly (but at least annually) carry out an assessment of their working environment. This applies to both office work stations or those when working at home. Stressor Risk assessments may be completed on request. Employees concerned about their working environment in either location should discuss their concerns with their line manager.
- 5.3 There may be occasions when an employee or a manager has concerns about the employee's ability to carry out some or all of the duties on health and safety grounds. The manager should consider the following:
 - arrange for an individual risk assessment,
 - discuss the matter with Health & Safety, Occupational Health and HR teams.

Where an employee's reasonable adjustment causes concern over their ability to carry out their duties safely a reassessment of the reasonable adjustment should be arranged in discussion with the employee, Health and Safety, Occupational Health and HR teams.

6. Managers' responsibilities

- 6.1. To ensure managers create a culture that promotes equality of opportunity they should ensure that they fully understand and actively promote the council's Equality in Employment procedure and:
 - prevent the inappropriate circulation and/or use of medical information,
 - ensure the use of discrimination-free language by promoting good practice,
 - discourage the use of stereotypical views and promote a realistic and positive image of disability, and
 - complete a Personal Emergency Exit procedure (PEEP) as appropriate for disabled employees and review annually.

7. Process for adjustments requested by employees

- 7.1 Managers and employees may mutually agree reasonable adjustments without the necessity of a formal process, however, there will be other occasions when a manager is not able to authorise more extensive adjustments, and then the procedure for assessing and agreeing adjustments is as follows:
- meet with the employee within four weeks of receiving the request for Reasonable Adjustments to gather the information needed to make a decision, and
 - following the meeting, complete a report and discuss the support options with HR, OH or Access to Work as required.
- 7.2 If no agreement can be reached, for example if the employee is not satisfied with the decisions made or the time taken to reach a decision, the employee may take action through the Grievance Resolution procedure. A potential employee will have the right to access the council's Complaints procedure should the response result in them being unable to commence work.
- 7.3 Ask your line manager for a reasonable adjustment request form.
- There will be occasions when agreed reasonable adjustments/amendments need to be reviewed because either the employee's condition has changed or service needs prompt a review.

8. Redeployment of an employee with a disability

- 8.1 Employees who have an acquired disability as defined by the Equality Act 2010 may be considered for redeployment to an alternative post once all reasonable adjustments / amendments to their current position have been considered and or implemented and found not to be satisfactory.
- 8.2 Please refer to the [Redeployment procedure](#) for more information.

Commented [EC1]: Wait for redeployment to go on you and work

9. Disability leave

- 9.1 The council will allow a reasonable amount of disability leave both paid and unpaid to employees who have a disability as defined under the Equality Act 2010.
- 9.2 Where the requirements of this policy are met the council will consider up to 20 occurrences disability leave as reasonable.
- 9.3 The ability to take disability leave follows a diagnosis of a condition that has been identified as a disability under the Equality Act 2010. Investigatory medical appointments are not covered.
- 9.4 All applications for disability leave must be booked in advance and agreed with the line manager using either iTrent self service or the Compassionate and Special Leave request form. Requests for more than 20 occurrences in a single leave year must be referred to the Corporate Director for decision. In exceptional circumstances, disability leave may be granted retrospectively.
- 9.5 Employees can only take disability leave when they are well. Disability leave is not a substitute for sick leave.
- 9.6 When considering what is reasonable the manager will take into account the needs of the service, the individual employee needs, the proposed duration of the treatment, the

consequences to the employee of leave not being granted, the location of the appointment or treatment and the frequency of the appointment or treatment.

- 9.7 Disability leave is available for rehabilitation, ongoing assessment or treatment.
- 9.8 The following predictable absences would qualify:
- physiotherapy
 - hydrotherapy
 - occupational therapy
 - hospital appointments with consultants
 - medical investigative procedures such as colonoscopy, endoscopy, x-ray, scans, MRIs
 - radiology
 - chemotherapy
 - cardiac and other rehabilitation
 - guide dog training
 - sign language training
 - individual counselling
 - group therapy sessions
 - cognitive behavioural therapy.
- 9.9 Wherever possible, the employee should try to make appointments either early or late in the day or at the start or end of a shift to minimise disruption to the working day.
- 9.10 Some examples of disability leave are as follows: appointments with psychiatrist, Cognitive Behavioural Therapy, group or individual counselling, art therapy. These types of sessions may be for one to two hours duration over a 12 week period. Regular assessments could be covered by disability leave for example: someone who has been diagnosed with cancer may be expected to have regular six monthly or annual checks. Time off to attend the appointment could be granted. Types of treatment that may be suitable for disability leave could be a course of chemotherapy or radiotherapy treatment. The time for the treatment could be recorded as disability leave.
- 9.11 Any sickness taken as a result of an individual's disability (or as a result of treatment) will be recorded as sickness absence and will be recorded in accordance with the council's Sickness Absence procedure in most cases as "Sickness (disability related)".
- 9.12 As with all reasonable adjustments disability leave should be regularly reviewed to ensure it is appropriate and relevant.