



Staff Guidance Booklet

Disability Disclosure Guidelines for all Line Managers

Disability disclosure guidelines for line managers (staff)

1. Scope

This guidance booklet has been produced to support all staff who have line management responsibilities. It is intended to provide them with advice on the actions they should take if a member of their staff discloses a disability or long-term health condition (hereafter jointly referred to as a 'disability').

2. Introduction

The University is committed to providing an accessible and welcoming working environment for staff and embraces diversity and inclusion. It seeks, therefore, to create a working environment that provides the necessary support for all staff to achieve their potential. Staff come to the University from a range of backgrounds and cultures and with a wide range of academic and life experiences. This enriches life in the University for all.

This commitment is outlined in the University's Equality Scheme and associated policies and strategies, including its Equal Opportunities policy and Disability Action Plan. In addition, the University is committed to promoting positive attitudes towards disabled people and encouraging participation of disabled people in public life.

The Disability Discrimination Act 1995 (as amended) imposes specific duties on the University with regard to disabled people. Under the Disability Discrimination Act, the University is prohibited from unlawfully discriminating against disabled people by failing to put in place a reasonable adjustment. This means that the University and its staff must anticipate and make reasonable adjustments to its provisions for disabled staff in general, and also make 'reactive' reasonable adjustments to address the specific access requirements of individual disabled staff. Therefore, it is important that disabled staff are actively encouraged to tell someone about (i.e. disclose) their disability so that the information can be used to provide appropriate support and to make reasonable adjustments. This will also help to create a universally accessible environment.

Disclosure is aimed at gaining knowledge to assist a disabled staff-member to realise his/her full potential. It is not aimed at learning about their disability per se. Therefore, enquiries should not be intrusive.

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3. How might I know that a staff-member has 'disclosed'?

A staff-member may tell you formally that they are disabled (e.g. in writing, by e-mail), or informally (e.g. in conversation, by communicating with you using a text phone), either before or after starting work at the University. Once a disabled staff-member has told another member of staff that they are disabled, whether formally or informally, then in legal terms, the University as a whole is **deemed to know**. If a staff-member requests confidentiality, then the potential implications of this decision should be clarified (see Section 6).

4. How might I to encourage disabled staff-members to disclose their disabilities?

Staff are currently given an opportunity at application to disclose a disability (i.e. by completing an Equal Opportunities monitoring form). This information is passed to the Equality, Diversity and Inclusion (EDI) Unit who use this information for monitoring and planning purposes. In addition, staff are asked to disclose a disability when they complete their Occupational Health pre-employment form. However, many applicants do not disclose at this stage either because they do not see themselves as disabled or they fear that the information will adversely impact on the selection process. In addition, staff may acquire a disability whilst at University or a disability or a medical condition may deteriorate. Staff can update their Equal Opportunities record via the self-service area of the Staff Portal, or return a Disability Questionnaire (during the University's regular disability surveys).

There is no duty on a staff-member to disclose his/her disability, and some staff-members may prefer not to disclose a disability for various reasons (e.g. fear of discrimination, or they do not think they need any reasonable adjustments). In general, it is in a staff-member's best interests to disclose his /her disability so that bespoke /tailored support can be provided and other staff will better understand how to make the work environment more accessible for them. They should be able to request support at any stage during their employment. Therefore, you should encourage a disabled staff-member to disclose a disability by:

- creating appropriate opportunities for disclosure, so that reasonable adjustment requirements can be made (e.g. in one-to-one meetings, at departmental induction);
- making your staff aware of the support available, for example, by:
 - displaying information about the EDI Unit;
 - disseminating Staff Guidance Booklets developed by the EDI Unit;
 - encouraging staff to complete the University's 'On-line Disability Awareness Training Course' and attend tailored equality/disability awareness training (as appropriate);

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- where appropriate, encouraging staff to complete a Disability Questionnaire;
- inviting the Section Leader for EDI to provide tailored disability awareness training, as appropriate;
- referring staff to the University's Disclosure guidelines (available at: ulster.ac.uk/peopleandculture/employee-benefits/equality-diversity/equality-policies-and-guidance) referring staff to the University's General Data Protection Regulation (GDPR) Policy (available at: ulster.ac.uk/about/governance/compliance/gdpr)
- creating an open and welcoming atmosphere;
- explaining that staff will be better placed to provide appropriate additional support to the disabled staff-member if they disclose they have a disability;
- explaining that all disability information will be used only for the purposes of providing reasonable adjustments and for planning purposes, and will be treated in line with all relevant data protection legislation; and
- explaining that University staff cannot unlawfully discriminate against a disabled staff-member as a result of their disclosure and the University will treat any complaints regarding discrimination in a serious manner.

5. What do I do if a staff-member identifies him/herself as being disabled?

If a staff-member tells you that they have concerns about access or their ability to carry out their work (meet work requirements), which you or they think could be for a reason related to a disability, you should arrange to meet and take the time to discuss the support sought in a confidential setting. During this meeting, you should:

- reiterate that it is in the staff-member's best interest to disclose, emphasising that the aim of disclosing is to put appropriate support in place and that it is not necessary to give full personal details other than in a confidential setting;
- make it plain to the staff-member that they do not need to tell you about the details of their disability other than how they affect/relate to the work environment;
- provide them with a copy of the University's Staff Protocol for making reasonable adjustments for disabled staff;
- discuss the staff-member's reasonable adjustment requirements;
- encourage the staff-member to complete a Tailored Adjustment Agreement with you;
- ask the staff-member's written permission to pass on the information necessary to make reasonable adjustments (e.g. by asking them to complete a disclosure form, see Appendix B);

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- confirm who the staff-member agrees the information necessary to make reasonable adjustments should be shared with, and which information should be shared;
- discuss confidentiality issues with the staff-member (see Section 6); and
- advise the staff-member that the DDA offers protection against Disability Discrimination; and
- encourage the staff-member to update their Equal Opportunities Record via the self-service area of the Staff Portal.

After the meeting, and once you have received written consent from the staff-member, you must pass on the disability information, as agreed with the staff-member, as soon as possible.

If the staff-member does not provide written confirmation, the information should not be passed on (unless exceptional disclosure applies, in which case you should refer to Section 8 of the University's Disclosure Guidelines and liaise with the Section Leader for EDI and the University's Data Protection Officer before passing on any information). You should not 'badger' the staff-member for their written consent, as this could be perceived as harassment.

You should always get advice from, and work collaboratively with the Section Leader for EDI, Occupational Health and the staff-member, in order to determine and put in place **appropriate** reasonable adjustments.

6. How should I deal with a staff-member who discloses a disability to me, but insists that they do not want any information to be passed on?

A disabled staff-member has the right to request that you do not reveal the existence or nature of his or her disability to anyone else (the rules of confidentiality will ALWAYS apply). You should:

- if necessary, contact the Section Leader for EDI for advice on how to deal with this request (without disclosing the staff-member's name);
- take time to talk to the staff-member in private, and go through the University's Disclosure guidelines with them;
- explain to them that disclosure is aimed at gaining knowledge on how reasonable changes can be made to the work environment to assist the staff-member to realise his/her full potential. It is not aimed at learning about a staff-member's disability and is not meant to be intrusive or cause unlawful discrimination;
- explain that certain key people may/will need to know (if appropriate) about their disability so that bespoke /tailored support can be provided and staff will better understand how to make the work environment more accessible for the staff-member (for example, with regard to accessing buildings, equipment, information, flexible working, training and advice);

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- explain to the staff-member that a request not to make information available to others may affect the range of adjustments made. It may mean that either a reasonable adjustment has to be made in a different way, a less satisfactory alternative reasonable adjustment is made, or no adjustment is made;
- explain that there are exceptional circumstances when you must share disability information (see Section 8);
- explain that all disability records will be kept by them in a secure place and disposed of safely after one year of them ceasing to be employed by the University, in accordance with the GDPR (see Section 7); and
- if the staff-member still requests that you do not reveal the existence or nature of his or her disability to anyone else, you must ensure that you do not pass on any disability information without the staff-member's written consent (unless exceptional circumstances apply, in which case you should refer to Section 8 of the University's Disclosure Guidelines and liaise with the Section Leader for EDI and the University's Data Protection Officer before passing on any information).

7. Where and how should I store information about a staff-member's disability?

All staff disability information should be treated as 'sensitive information' under data protection legislation. This means that you must store all staff disability information such as their Tailored Adjustment Agreement in a secure place (for example, a locked filing cabinet which only you have access to), treat it as confidential (i.e. sensitive personal data which has been provided in confidence) and dispose of it safely (i.e. shred it or dispose of it in the University's confidential waste) one year after the person ceased to be employed by the University, in line with the University's GDPR Policy.

8. When must I share confidential information without the staff-member's consent?

Certain exceptional circumstances may allow for the release of personal data. These include:

- where there is an immediate threat to the personal safety of the staff-member concerned, or to the safety of others;
- where there is a legal requirement to disclose that information (i.e. a crime has been committed or it is covered by health and safety legislation); and/or

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- where professional fitness to practice may be compromised (this will apply to a limited number of jobs where the disclosure of personal data is necessary to assess fitness to practice).

This list is not exhaustive.

Health and safety and fitness to practice concerns should be tested against a detailed and personal risk assessment or with reference to documented criteria from the appropriate professional body.

In cases of 'exceptional disclosure' the consent of the staff-member should not be sought where it is likely to increase the level of risk to that staff-member or to a third party. In order to determine whether exceptional circumstances apply, you should contact the University's Data Protection Officer before releasing any personal data/disability information. This reduces vulnerability to litigation. Each case of exceptional disclosure should be considered individually.

9. What are my responsibilities with regard to passing on/sharing disability information?

Once you know about a staff-member's disability, and explicit written consent has been obtained to share this information, you must pass on this information as soon as possible to relevant staff (i.e. only the people who need to know – this will vary depending on the individual), and in accordance with the University's GDPR Policy.

It is **not** the staff-member's responsibility to tell every member of staff about their disability. In effect, a staff-member should only have to disclose to a member of staff at the University once.

You should not pass on any information about a staff-member's disability when providing job references, unless you have received written consent from the staff-member to do so (See Section 12).

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10. What should I do if I think that a disabled staff-member is applying for an internal post which I think may pose a threat to the personal safety of the staff-member concerned, or to the safety of others?

Where you think that there may be an immediate risk to the future well-being of a staff-member or others because a staff-member is applying for a particular internal post, you should liaise with the Section Leader for EDI in this regard. The Section Leader for EDI will help to ensure that the access needs of the individual staff-member are met and, where necessary, that any Health and Safety concerns are addressed through an appropriate risk assessment prior to appointment. Where Health and Safety Services / Occupational Health makes an assessment that a particular type of work (post) would be unsuitable for the staff-member, they will discuss this with the staff-member, and advise them accordingly.

11. When writing a reference, is it my responsibility to inform an employer that a staff-member is disabled?

It is not your responsibility to tell a potential employer that the staff-member is disabled or inform them of a staff-member's disability access requirements. Under the Disability Discrimination Act 1995, the employer has a responsibility to give each and every applicant the opportunity to disclose their reasonable adjustments requirements prior to interview. However, if you think that exceptional circumstances apply (for example, that there may be a Health and Safety or Fitness to Practice issue), seek clarification and advice from the Section Leader for EDI and the University's Data Protection Officer before proceeding/returning the reference.

12. How should I report on a staff-member's attendance record in a job reference, without unlawfully discriminating against a disabled staff-member?

You should answer truthfully about their attendance. However, absence which is related to disability or long-term ill-health (which would be considered a disability under the DDA) should **not** be reported explicitly in the attendance record.

The staff-member can give consent for certain information about their disability to be shared with prospective employers. This could include information about disability-related sickness absence, where the inclusion of such information might help to present the staff-member in a better light if their general attendance record is poor. Staff should obtain the staff-member's written consent before

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providing such information. Where appropriate, staff should also liaise with the Section Leader for EDI to ensure that the information provided in the reference does not unlawfully discriminate or encourage unlawful discrimination against the staff-member.

A standard form of wording which can be included in references is provided in Appendix B.

13. Who should I contact for additional support and advice?

You should contact the Section Leader for EDI if you need advice about supporting disabled staff and prospective staff, or providing reasonable adjustments.

14. Are there other useful resources that I could refer to?

The Equality Challenge Unit's report on disclosure and support issues for disabled staff in Higher Education (2008) can be found at:

ecu.ac.uk/publications/disclosure-for-disabled-staff-in-he-report-08/

The University's staff guidance on disclosure is located at:

ulster.ac.uk/peopleandculture/employee-benefits/equality-diversity/equality-policies-and-guidance

The University's Rules Governing Data Protection are located at:

ulster.ac.uk/about/governance/compliance/gdpr

The University's Staff Protocol for making reasonable adjustments for disabled staff is located at:

ulster.ac.uk/peopleandculture/employee-benefits/equality-diversity/equality-policies-and-guidance



Staff Disability Disclosure Form

Name:	
Staff Number:	Contact details:
<p>I give my consent for the information I have provided regarding my disability disclosure to be passed on to the relevant Equality, Diversity and Inclusion staff so that reasonable adjustments can be made.</p> <p>I also understand that should I choose for information/details of my disability not to be passed on to Equality, Diversity and Inclusion staff, Ulster University may be unable to meet my needs as a disabled staff-member or to make reasonable adjustments as per requirements under the Disability Discrimination Act 1995 (as amended).</p>	
Full name:	<input type="text"/>
Signature:	<input type="text"/>
Signed (Line Manager/HOD/HOS):	<input type="text"/>
Date:	<input type="text"/>
<p>To staff: Please ensure this form is passed to the Equality, Diversity and Inclusion Unit, Room 2H15A, Jordanstown.</p>	

Appendix B

General statement regarding attendance for use in staff references

Where information on attendance is requested in staff references you should include the following statement:

The University is aware that by providing information about attendance, it may inadvertently discriminate against, or cause unlawful discrimination of a disabled staff-member, especially where attendance at work has been poor. With this in mind, the University will only report on disability-related absence where the staff-member has given their consent or where exceptional circumstances apply. Therefore, the attendance information provided to you below may include disability-related absence. However, where long periods of absence are reported, it should not be assumed that the respective staff-member is disabled.

This booklet is also available on the University's website at:
ulster.ac.uk/peopleandculture/employee-benefits/equality-diversity/equality-policies-and-guidance

It can also be made available on request, in alternative formats including Braille, audio and in minority languages to meet the needs of those who are not fluent in English.