

Policies and practices

In this section you will find information on the following:

Benefits of retention and redeployment

Sickness absence

Retention and redeployment policy

Retention and redeployment process

Redundancy

Disciplinary action

Policies and practices

Once a disabled person has been recruited it is important that the initial support is continued, with any adjustments reviewed regularly to ensure that the member of staff is able to be fully effective and develop in their role. The guidance on selection methods, given earlier in this Guide, would also apply to any selection procedure for promotion or training/development opportunities. This would include making reasonable adjustments and treating all staff fairly.

It is also important to note that most people who become disabled do so as adults – only 17% of the disabled population (UK) are born with disabilities. Whilst the likelihood of developing a disability increases with age; 70% of people are in work during the onset of disability or impairment⁵. In circumstances where a disability is acquired, consideration needs to be given to adjustments to try and retain these individuals. Usually the cost of any adjustments can be far less than those of recruiting a replacement employee and there may be assistance available from the Committee for Employment and Social Security. See Sources of Support on Page 57.

This section of this Guide describes a range of policies and practices once a disabled person has been recruited.

⁵Regan S., Stanley K. Work for Disabled People – Institute of Public Policy Research





The benefits of retention and redeployment

There are many benefits in retaining people who develop a disability or health condition during their working lives. Many people with a disability have well-developed problem solving skills that can be of benefit in your workplace. Living with a disability or a health condition often means dealing with difficulties as part of everyday life, using planning, negotiation and problem-solving skills. These types of flexible and transferable skills can be useful and can promote a problem-solving culture.

Organisations that actively recruit and support employees with disabilities and health conditions tend to:

- Have good people management systems
- Retain expertise and skills
- Improve staff morale
- Enhance their public reputation

In addition, research has shown that, when disability and health are properly managed, employees with disabilities tend to take less sick leave than their non-disabled colleagues and their commitment to stay with employers is for longer. The cost of keeping an employee, through reasonable adjustment, who develops a disability or health condition will almost always cost far less than having to recruit and train a new employee.

EXAMPLE

Possible steps to ease transition back to work:

- Arranging a social visit prior to their official return date
- Keeping in contact, discussing fully any adjustments or supports that have or may be put in place
- Agreeing to a phased return, where the employee can gradually increase their hours
- Making sure the employee is not overloaded initially, although it is important that they are given meaningful work to do soon after their return
- Discussing with the individual if they would like any support with explaining their absence to colleagues and how they would like any changes in the workplace to be explained

Often adjustments that are made for disabled people or someone with a health condition benefit others – both other employees and customers. As an organisation becomes more disability aware, these changes become part of everyday life – just the way things are done – and this is to everyone’s benefit.

Best practice in retention means holding on to valuable employees, whether they have a disability or health condition, when they are first employed or acquire a disability during the course of their employment. The key is to make your response to disability a positive one that focuses on how you can retain staff and enable employees to perform to their full potential by making reasonable adjustments. This disability management approach to retention should:

- Increase the numbers of employees returning to work after a short or long-term absence
- Reduce the costs associated with absence in the workplace
- Improve productivity and employee morale
- Avoid inadvertent unfair treatment towards employees with a disability
- Avoid a negative approach, which focuses on irrelevant medical requirements to deflect other management issues

Sickness absence

With significant numbers of people acquiring a disability whilst in work, it is important to consider this when managing sickness absence. It is important to note that people who acquire a disability do so not only as the result of a single traumatic injury (e.g. a road traffic accident), but also due to the development or deterioration of a condition. It is good practice to be proactive in relation to an employee’s absence and rehabilitation and to consider making reasonable adjustments before an employee’s condition would necessarily be considered a disability. This may help employees return to work earlier and save the costs of sickness absence and replacement staff.

Employers could consider:

- Where possible, maintaining regular contact with the employee
- Referring the employee to occupational health providers if available
- Seeking assistance from the FitTogether initiative of Social Security⁶
- Focusing on bringing the employee back to work by discussing any adjustments that might be required and perhaps considering a phased return with the support (where appropriate) of the employee’s GP, an occupational health specialist or other relevant medical advisor

There is a difference between sickness and disability-related absences. Disabled people generally take no more or less sick leave than other employees. However, a minority, owing to the nature of their condition may need to take additional disability-related absences.

Further advice and information, can be found in the Absence and Sickness Management guide published by the States of Guernsey Employment Relations Service.⁷

⁶ <https://www.gov.gg/fittogether>

⁷ www.gov.gg/employmentrelations



CASE STUDY

Following a three month absence due to depression, an employee was keen to return to work but was apprehensive and had lost some confidence. It was agreed between the employee, the employer and her GP that a phased return to work would be beneficial to everyone. A phased return plan was drawn up to ensure that the employee and her manager were quite clear what was to happen and when. It was agreed that during her first week back she would work part-time from Monday to Friday (afternoons only); during the second week she would work part-time Monday, Tuesday, Thursday and Friday and full-time on Wednesday; in her third week she would work part-time on Thursday and Friday and full-time Monday – Wednesday. On week four she successfully made the transition back to full-time employment in her original job.

Managers need to bear in mind that an employee who has been absent from work for any length of time may feel very anxious about returning to work; this may be the case particularly if the absence has been the result of mental health issues. It is vital that the employer takes steps to ease the transition back into work. This could include seeking advice from Guernsey Mind.

FitTogether is an initiative of the Committee for Employment and Social Security and it aims to raise awareness of the very important relationship between work and health. FitTogether is about doctors, employers and employees all working together to make sure that people who have an illness, injury or disability are supported as early as possible to help them stay at work or get back to work as quickly as possible. Further information on FitTogether can be found on Sources of Support on page 58.

Retention and redeployment policy

There will be occasions when, after all reasonable adjustments have been made an employee will be unable to carry out the duties in their post because of the effects of a disability or long term health condition. This situation may also occur where an individual has a disability that is stable, but the nature of their job changes significantly and they are not able to carry out the revised duties even with reasonable adjustments.

Where there are no reasonable adjustments that would enable the person to stay in their original post, it is good practice to consider if there are any other posts that would be suitable. It would be a reasonable adjustment to transfer someone to a suitable vacant post to allow them to be retained. However, the organisation does not have to 'create' a vacancy if there is not one available.

Retention and redeployment process

The following stages are suggested as a procedure to ensure that all options are considered. Ideally these should be written into a retention and redeployment policy to ensure that all supervisory staff are aware of their responsibilities and that all cases will be dealt with consistently. In any event, the stages are listed to present a potential outline of actions that may be considered by employers.

Stage one

Information should be collected to support the decision making process. Organisations may be able to refer the individual to a medical officer or occupational health provider who will be able to support this process. The States of Guernsey can also provide some support to disabled people through the FitTogether initiative run by Social Security.

Stage two

All information available should be brought together to form a redeployment action plan. This should be based on the information from the medical officer (or occupational health provider), the disabled employee and their line manager and discussed fully with the employee. This would include details of what adjustments could be considered.

Stage three

This stage requires flexible and creative thinking. With the additional information available, the possibility for reasonable adjustments to the individual's current post should be reconsidered first to ensure redeployment is the only remaining option. Consideration should then be given to any suitable vacancies and any reasonable adjustments that could be made to other vacancies. It would be good practice to consider Job Creation/Job Flexibility (as discussed on page 21 of this Guide) at this stage. Throughout this process the individual must be fully consulted and their preferences taken into consideration.

Stage four

If there is any uncertainty whether a post will be suitable, it would be appropriate to arrange a short work placement in the new post. This gives the opportunity to assess the person's capabilities in the new post, refine any reasonable adjustments and for the individual to consider if they wish to proceed with the transfer.

The short work placement should be monitored over 1 – 4 weeks and a decision taken reviewing the suitability of the placement.

Stage five

Once the employee is re-settled into their existing job with adjustments or re-deployed into a new role, the situation should be monitored to ensure that the employee is given the appropriate levels of support.

The most vital aspects of the retention and redeployment process are to ensure full consultation with the individual at all times throughout the process, and consideration of reasonable adjustments at all stages.

Further practical advice on returning to work after sickness absence, including contact information for Occupational Health Practitioners can be found on the "FitTogether" website: <https://www.gov.uk/fittogether>



Redundancy

In general, and in conjunction with the advice given by the Code of Practice, Handling Redundancy issued by the States of Guernsey Employment Relations Service⁸, the same arrangements, duties and requirements for redundancy apply for disabled employees as for employees without disabilities. Provided that the process is fair, reasonable and correctly followed, an employer should not have any concerns about their ability to make a disabled employee redundant. However, it is essential to recognise that it can sometimes be easy to unintentionally act unfairly against a disabled person in these situations.

It is normal practice for a consultation process with employees to be undertaken when redundancies are being considered. Employers need to ensure that any arrangements which are made for consultation do not act unfairly against a disabled employee. It is vital to make sure that they have received the information in an appropriate format, can fully understand the proposals and have the same chance as any other employee to contribute to the consultation process. It would be considered good practice to allow a disabled employee to have independent representation or to be accompanied by an approved companion throughout this process.

Sometimes a set of criteria is used to determine who will be made redundant. The guidance on selection methods for recruitment should be followed to ensure that the criteria set, or assessment of the criteria do not act unfairly against a disabled employee.

EXAMPLE

It may require involving a representative for an employee who has a learning disability to help explain the process and to assist the individual to present feedback to management.

A person with a visual impairment should have any written information provided in large print or electronic format for them to be able to read it with assistive technology, such as enlarging text reader or audio read back software, if applicable.

EXAMPLE

It is quite common practice to include number of days' sickness absence as part of the selection criteria, for consideration for redundancy. However, if this includes absence caused by a person's disability, and depending on the circumstances, disapplying the period of disability selected absence from the scoring process may be a reasonable adjustment to make.

⁸Code of Practice – Handling Redundancy www.gov.gg/employmentrelations

Disciplinary action

Disabled employees with a disability are covered by the same disciplinary policies as all other employees. However, care must be taken throughout the disciplinary process to ensure that the employee is able to fully participate in the disciplinary process. Furthermore, the employer must ensure that there are no factors relating to a person's disability that have led to the disciplinary action being required, such as a person on the autistic spectrum misunderstanding unwritten rules or codes of conduct. 'Reasonable adjustments' may need to be made in relation to arrangements for disciplinary action or interviews in the same way as for other situations/procedures. It would be considered good practice to allow a disabled employee to have independent representation or to be accompanied by an approved companion throughout this process.

The Code of Practice for Disciplinary Practice and Procedures in Employment issued by The States of Guernsey Employment Relations Service⁹ provides advice on all aspects of disciplinary action and procedure and there are a number of specialist agencies that can offer advice on disability related issues. See Sources of Support on page 57.

EXAMPLE

An individual who is deaf and a BSL user (British Sign Language) usually lip reads in his day-to-day work, as it does not involve much communication and he does not feel a BSL interpreter is usually necessary. It would be a reasonable adjustment to offer to arrange an interpreter for a disciplinary meeting, as it is vital that he understands the content of the meeting and its implications.

⁹Code of Practice - Disciplinary Practice and Procedures in Employment
www.gov.gg/employmentrelations