

## HEROS Charity



### REASONABLE ADJUSTMENTS POLICY

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#### 1. The Duty not to Discriminate

Disabled learners have a right not to be discriminated against at HEROS

This covers everything that HEROS provides for learners, beyond just the formal education available. It includes access to all activities such as extra-curricular and leisure activities, after-HEROS and homework clubs, sports activities and educational visits, as well as access to all facilities such as walkers, arenas and yard.

HEROS must not discriminate against, or victimise, a learner: -

- in the way the HEROS provides education for the learner, and in the way the HEROS affords the learner access to a benefit, facility or service;
  - by not providing education for the learner;
  - by not affording the learner access to a benefit, facility or service;
  - by subjecting the learner to any other detriment.

These obligations, however, do not apply to anything done in connection with the content of the curriculum. HEROS is not restricted in the range of issues, ideas and materials used in the syllabus. HEROS can expose learners to thoughts and ideas of all kinds, however controversial. Even if the content of the curriculum causes offence

to learners with certain protected characteristics, this will not make it unlawful unless it is delivered in a way which results in harassment or subjects learners to discrimination or other detriment.

## **2. The 'reasonable adjustments' Duty**

HEROS is expected to make 'reasonable adjustments' to enable disabled learners as far as is reasonably practicable to overcome any disadvantage felt by a disabled learner.

The 'reasonable adjustments' duty was first introduced under the Disability Discrimination Act 1995. The 'reasonable adjustments' duty under the Equality Act 2010 operates slightly differently and has been extended to cover the provision by a HEROS of auxiliary aids and services. However, this element of the duty will not come into force until a later date yet to be confirmed (*probably September 2012*). The object of the duty is the same - to avoid as far as possible by reasonable means, the disadvantage which a disabled person experiences because of his/her disability.

This duty towards learners sits alongside the duties towards special educational needs and those of local authorities under Part 4 of the Education Act 1996.

In some cases the support a disabled learner may receive under the special educational needs framework may mean that they do not suffer a substantial disadvantage, and so there is no need for additional reasonable adjustments to be made for them. In other cases disabled learners may require reasonable adjustments in addition to the special educational provision they are receiving.

There are also disabled learners who do not have special educational needs but still require reasonable adjustments to be made for them. The level of support a learner who is receiving under Part 4 of the Education Act 1996 is one of the factors to be taken into account when HEROS considers what it would be reasonable for

## **3. Definition of Disability**

The Equality Act 2010 defines a person as disabled if they have a physical or mental impairment that has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

- 'Normal day-to-day' means things that people do on a regular or daily basis, such as reading, writing, using the telephone, having a conversation and travelling by public transport .
- 'Long-term' usually means the impairment should have lasted or be expected to last at least a year.
- 'Substantial' means not minor or trivial.

The key issue is not the impairment but its effect. Impairments such as migraines, dyslexia, asthma and back pain can count as a disability if the adverse effect on the individual is substantial and long-term. Some conditions automatically count as disabilities for the purposes of The Equality Act 2010, from the point of first diagnosis - these are cancer, HIV and multiple sclerosis (MS).

"Where -

- (a) a provision, criterion or practice applied by or on behalf of an employer, or
- (b) any physical feature of premises occupied by the employer,

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the employer to take such steps as it is reasonable, in all the circumstances of the case, for him/her to have to take in order to prevent the provision, criterion or practice, or feature, having that effect."

#### **4. Confidentiality and Data Protection**

##### Data Protection

The Data Protection Act 1998 places duties on the HEROS to ensure confidential and appropriate handling of 'sensitive personal data', which includes data about a person's health.

The Data Protection Act also gives individuals the right to see personal data and information held or processed about them, provided they request it in writing. This provision is important in accessing personal information relating to a risk assessment and any other information about the disabled learner..

##### Revealing a disability

In order to enable the HEROS to make reasonable adjustments a disabled learner (or their advisers) must provide the HEROS with sufficient information for the HEROS to carry out that adjustment.

The HEROS must, however, recognise the disabled person's right to confidentiality and the HEROS must not disclose confidential details about them without their explicit consent.

#### **5. When it is reasonable to make an adjustment**

Where disabled learners are placed at a substantial disadvantage by a provision, criterion or practice or the absence of an auxiliary aid, the HEROS will consider as

soon as reasonably practicable whether any reasonable adjustment can be made to overcome that disadvantage.

The HEROS's starting point in determining what a reasonable adjustment might be is to consider how to ensure that disabled learners can be involved in every aspect of HEROS life, and to introduce and maintain 'adjustments' that the HEROS considers are effective.

The HEROS will take into account the Equal Opportunities and Human Rights Commission (EOHRC) advice that often effective and practical adjustments involve little or no cost or disruption. (*see examples in Appendix 1*)

The HEROS considers that it is good practice to work with disabled learners and their parents in determining what reasonable adjustments can be made.

Although the HEROS will not expect disabled learners to suggest adjustments, the HEROS will encourage them to make suggestions and will have regard to any suggestions made that might help to overcome the disadvantage. The HEROS will determine whether the suggestions are reasonable for the HEROS to implement in all the circumstances.

## **6. Factors that the HEROS must take into account**

The HEROS is required to take reasonable steps to avoid substantial disadvantage where a provision, criterion or practice puts disabled learners at a substantial disadvantage.

This duty is owed to:

- existing learners,
- applicants for places, and,
- in limited circumstances, to disabled former learners

in relation to the following areas:

- deciding who is offered admission to the HEROS as a learner,
- the provision of education, and
- access to any benefit, service or facility.

The factors to take into account when making an adjustment are:

- how effective the adjustment would be in overcoming the disadvantage
- how practicable it is to make the adjustment
- the financial and other costs incurred and the extent of any disruption to activities
- the extent of the employer's financial and other resources
- the availability of financial and/or other assistance in making the adjustment
- restrictions on adjustments due to listed building status/planning

The duty does **not** require the HEROS to make reasonable adjustments to avoid the disadvantage caused by physical features as this is covered by the planning duties.

The HEROS cannot justify a failure to make a reasonable adjustment. Where the duty arises the issue will be whether or not to make the adjustment is 'reasonable' and this is an objective question for a tribunal to determine ultimately.

The duty is an anticipatory and continuing one that the HEROS owes to disabled learners generally, regardless of whether staff at the HEROS know that a particular learner is disabled or whether the HEROS currently has any disabled learners on roll.

The HEROS understands that it is not expected to anticipate the needs of every prospective learner but acknowledges that it is required to think about, and take reasonable and proportionate steps to overcome, barriers that may impede learners with different kinds of disabilities.

The HEROS will not wait until an individual disabled learner approaches the HEROS authorities before considering how to meet the duty. The HEROS will plan ahead for the reasonable adjustments that may need to be made, regardless of whether the HEROS currently has any disabled learners on roll. By anticipating the need for an adjustment the HEROS sets out to be well placed to help disabled learners who come to the HEROS.

## **7. Provision of auxiliary aids and services**

The HEROS has a duty to provide reasonable auxiliary aids and services which are required in order to overcome a disabled learner's disadvantage. These auxiliary aids and services can take many forms, from the provision of wheelchairs to persons engaged to sit with the learner while the learner is learning.

The HEROS cannot charge for auxiliary aids and services which are adjudged to be reasonable.

### Reasonableness in the provision of auxiliary aids and services

What is 'reasonable' will depend on many factors - including the nature of the aid or service, the size of the HEROS, the funds available, the effects on other learners, and staff expertise.

In determining the reasonableness of the provision of an auxiliary aid or service the HEROS will take account of:

- the nature of the disability;
- the age, ability and aptitude of the learner;
- the range of possible adjustments which would substantially improve the disabled learner's ability to participate in the life and activities of the HEROS;
- the nature and range of the auxiliary aids and services which might be required to make substantial improvements for the learner;
- the availability of persons with relevant expertise;

- the likely effect on other learners and on staff of the provision of possible auxiliary aids and services;
- the resources available; and
- the finance available.

Decisions about the reasonableness of the provision of aids and services will be made by the Head or the Head's representative following consultations with the learner and/or his/her parents.

## **8. Responsibilities**

The 'responsible body' of a HEROS is responsible for ensuring there is no discrimination in relation to education or access to any benefit, facility or service.

The governing body is the 'responsible body in this HEROS.

The 'responsible body' has determined this policy and delegated the implementation to the Head.

The Head, or a person with delegated duties, will make decisions about the reasonableness of the provision of auxiliary aids and resources.

All staff must co-operate with the HEROS as far as is compatible with their contractual duties in discharging the HEROS's responsibility

## **9. Training**

The HEROS will ensure that staff receive appropriate training, and will keep a log of the training, which will be regularly reviewed.

In particular all staff will be made aware of the requirements of the Act and the implications for the education provision and delivery.

## **10. Equal Opportunities**

In implementing the policy the HEROS will ensure that the requirements of other equal opportunities legislation, regulation and guidance are taken into account.

## **11. Monitoring and Review**

The HEROS will make regular reviews of its practices, policies and procedures to ensure that appropriate reasonable adjustments are made to alleviate the effects of a learner's disabilities.

The Head will report on the working of the policy to the governing body at least annually.

The policy will be reviewed every two years.

12. Date of next review: Autumn 2019

Signed:

Date:

## Appendix 1

### **Examples of simple and effective 'reasonable adjustments'**

A teacher always addresses the class facing forward to ensure that a learner with hearing difficulties is able to lip-read.

A secondary HEROS runs a buddy system for new learners, allowing disabled learners to adapt more easily to a new environment.

A primary/preparatory HEROS introduces a buddy system and a friendship bench which creates a supportive and friendly place for disabled learners during breaks.

A HEROS provides appropriate training for the disabled learner and his/her colleagues.

The HEROS provides suitable equipment, or adapts equipment for the disabled learner. e.g. chairs, desks, computers, minibuses.

The HEROS ensures that teachers are trained to modify instructions or procedures e.g. by providing larger print, or material in Braille, or hearing loops.

The HEROS might improve communications for disabled learners e.g. by providing a reader, or visual as well as audible alarms.

Teachers could be trained to provide suitable alternative work. For disabled learners.