

# New JNCHEs Equality Technical Group

## Disability leave

**NEW JNCHEs**  
New Joint Negotiating Committee  
for Higher Education Staff

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**UNISON**  
*the public service union*

**unite**  
the **UNION**



## New JNCHES Equality Technical Group Disability leave

The New JNCHES 2012/13 settlement agreement included a commitment to engage with the Equality Challenge Unit (ECU) to explore the approaches to disability leave in the sector, and an Equality Technical Group of New JNCHES was established to fulfill this commitment, together with other equality-related work.

A 2011 ECU report<sup>1</sup> noted the importance of distinguishing between sickness absence and absence for other disability-related reasons and the report invited HEIs to consider creating separate disability leave policies.

Under the aegis of the Equality Technical Group, UCEA has consulted the ECU and extended the work to ask member institutions how disability absence is handled, including whether they have specific policies on disability leave. We have consulted a range of HE institutions and have found evidence of comprehensive arrangements for supporting disabled staff and for encouraging disclosure of disabilities. HE institutions recognise their duties under the Equality Act 2010 to make reasonable adjustments. Such adjustments may take many forms, reflecting the broad range of disabilities and impairments encountered in the workplace, and may include, where required, time off for a reason related to an employee's disability. Very few institutions have specific policies on disability leave, although there are examples in HE of broader employment policies and practice in relation to disability that encompass reasonable adjustments in the form of disability leave. The University of Wolverhampton, for example, has a policy on managing absence and workplace rehabilitation, which includes a section, entitled "supporting disability", which outlines the university's practice in relation to disability leave as a reasonable adjustment<sup>2</sup>.

The New JNCHES Equality Technical Group believes that it might be helpful in the management of disability leave to set out some general explanations of what this might constitute, which HR departments (in consultation with colleagues in Occupational Health and Equality and Diversity, as appropriate) may wish to use when reviewing their existing arrangements:

- Disability leave is regarded as leave specifically related to an individual's management of their disability or impairment, as distinct from disability-related sickness absence. An arrangement to allow an individual to take leave for this purpose may therefore be one example of a reasonable adjustment that an employer could make in seeking to mitigate significant disadvantage for a disabled employee in the workplace.
- It is not possible to prescribe the circumstances in which disability leave may be appropriate, as the judgment by an employer on a reasonable adjustment will be made in the context of each individual employee's circumstances. This needs to take into account recent occupational health advice obtained by the institution following an assessment of the individual's state of health and the nature of the work they are employed to undertake at the institution. However, the following features would generally apply:

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<sup>1</sup> [Enabling equality: furthering disability equality for staff in higher education](#)

<sup>2</sup> This policy is only available on the University's intranet, but the University's HR Department would be happy to discuss the policy with interested parties.

- **Purpose:** disability leave may be required for such particular purposes as assessment, treatment, or servicing of necessary equipment or disability aids.
  - **Scope:** disability leave can normally be differentiated from sick leave and where this is the case, should be recorded as a separate category of absence. It should be counted separately for attendance monitoring purposes.
  - **Notice:** disability leave is often planned and therefore might usually be agreed in advance. However, the need for leave might also arise unexpectedly. An employee's disability leave arrangements should be reviewed periodically (e.g. annually) to ensure that they remain effective and reasonable.
  - **Duration:** disability leave would usually be agreed for a fixed period, either as a block of time or days or for individual instances.
- Examples of circumstances that may prompt a need for disability leave include:
    - Appointments as a hospital outpatient or specialist check-ups
    - Specialist assessment, e.g. for such conditions as dyslexia
    - Equipment servicing, e.g. hearing aid tests
    - Training with a new guide, hearing or assistance dog, or assistive technology
    - Hospital treatment appointments, e.g. for a blood transfusion or dialysis, or to respond to a change in condition.
  - It is recognised that HE institutions' policy approaches for managing disability leave will vary. Some institutions may cover these points in policies on time off for medical appointments, others in disability policies, and others in wider arrangements on the management of absence.

### Further background information

**EHRC:** guidance on the duty to make reasonable adjustments:

[www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/the-duty-to-make-reasonable-adjustments-for-disabled-people/](http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/the-duty-to-make-reasonable-adjustments-for-disabled-people/)

**ECU:** resources on disability equality:

[www.ecu.ac.uk/subjects/disability](http://www.ecu.ac.uk/subjects/disability)

**ECU:** Enabling equality: furthering disability equality for staff in HE

[www.ecu.ac.uk/publications/enabling-equality-staff](http://www.ecu.ac.uk/publications/enabling-equality-staff)

**ECU:** Meeting the Equality Act 2010: learning from disability equality schemes in HE in England:

[www.ecu.ac.uk/publications/meeting-the-equality-act-2010-learning-from-disability-equality-schemes-in-higher-education-in-england](http://www.ecu.ac.uk/publications/meeting-the-equality-act-2010-learning-from-disability-equality-schemes-in-higher-education-in-england)

**ECU:** Developing staff disclosure: a guide to collecting and using equality data

[www.ecu.ac.uk/publications/developing-staff-disclosure](http://www.ecu.ac.uk/publications/developing-staff-disclosure)

## Trade union briefings

**TUC:** Sickness Absence and Disability Discrimination: A trade union negotiator's guide to the law and good practice:

[www.tuc.org.uk/tucfiles/526/Sickness\\_Absence\\_and\\_Disability\\_Discrimination\\_Feb2013.pdf](http://www.tuc.org.uk/tucfiles/526/Sickness_Absence_and_Disability_Discrimination_Feb2013.pdf)

**UNISON:** report on disability leave and disability-related issues:

[www.unison.org.uk/documents/3058](http://www.unison.org.uk/documents/3058)

This is also available via [education@unison.co.uk](mailto:education@unison.co.uk)

**UCU:** Disability leave briefing:

[www.ucu.org.uk/media/pdf/m/l/Disability\\_Leave.pdf](http://www.ucu.org.uk/media/pdf/m/l/Disability_Leave.pdf)

[www.eis.org.uk](http://www.eis.org.uk)  
[www.gmb.org.uk](http://www.gmb.org.uk)  
[www.ucea.ac.uk](http://www.ucea.ac.uk)  
[www.ucu.org.uk](http://www.ucu.org.uk)  
[www.unison.org.uk](http://www.unison.org.uk)  
[www.unitetheunion.org](http://www.unitetheunion.org)

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