

RHODES UNIVERSITY **STAFF DISABILITY POLICY**

1. POLICY PARTICULARS

DATE OF APPROVAL BY EQUITY and INSTITUTIONAL CULTURE COMMITTEE:
8/04/2005

DATE OF APPROVAL BY EMPLOYMENT EQUITY AND INSTITUTIONAL CULTURE
COMMITTEE: 17/06/2010

DATE OF NOTING BY EQUITY AND INSTITUTIONAL CULTURE COMMITTEE:
30/07/2010

DATE OF APPROVAL BY SENATE: 3/06/2005; 27/08/2010

DATE OF APPROVAL BY COUNCIL: 6/10/2005, 9/09/2010

COMMENCEMENT DATE: 1 November 2005

TRANSLATION INTO ISIXHOSA: Yes

REVISION HISTORY: July 2005, May 2010

REVIEW DATE: To be reviewed by end of 2013

POLICY LEVEL: All staff

RESPONSIBILITY [Person/Division/Committee accountable for]:

- IMPLEMENTATION & MONITORING: Human Resources, Estates Division, Finance Division and Heads of Departments/Divisions
- REVIEW AND REVISION: Equity Committee but any of the above structures may recommend changes

REPORTING STRUCTURE:

Director (HR)→ Registrar: Finance and Operations and Vice-Chancellor

Director (Estates) → Registrar: Finance and Operations→ Vice-Chancellor

Director (Finance) → Registrar of Finance and Operations → Vice-Chancellor

Heads of Departments → Deans → Vice-Chancellor

2. POLICY STATEMENT

2.1 POLICY DECLARATION:

In its Mission Statement, the University makes a commitment to developing shared values that embrace basic and human civil rights, to rejecting all forms of unfair discrimination and to the redressing of past imbalances. Furthermore, the institution's Equity Policy states that the institution is striving to foster an inclusive culture that vehemently rejects any absolute barriers to the employment, promotion or development opportunities of certain groups. It is recognised that widespread ignorance, fear and stereotypes have in the past caused people with impairments to be unfairly discriminated against in society and in employment and that this has negatively impacted their job prospects and quality of life. It is also recognised that impairment does not constitute a disability in itself and that people with impairments only become disabled with education, work and leisure opportunities are denied to them on the basis of their impairment. This is consistent with what is commonly referred to as the Social Model of Disability (*reference: [www.nationmaster.com/encyclopedia.](http://www.nationmaster.com/encyclopedia/)*)

This policy notes the institution's commitment to recognising the changes that need to be made to allow staff with impairments to participate fully within the University.

2.2 POLICY OBJECTIVES:

This policy seeks to ensure that:

- No unfair discrimination takes place against people with impairments within the various employment practices of the institution
- Positive and unprejudiced attitudes towards people with impairments are fostered and encouraged
- Reasonable accommodation as regards the needs of people with impairments is explored such that the adverse impact of the impairment is minimised allowing such individuals to contribute to the institution
- Individuals are provided with a choice as to whom they will disclose their impairment, except where this is required by law.

2.3 DEFINITIONS:

The following definitions are consistent with the Social Model of Disability and the Employment Equity Act and/or the Code of Good Practice on Key Aspects of Disability in the Workplace:

People with impairment:

Only people who satisfy all the following criteria are regarded as persons with impairments:

- (1) Long-term or recurring: the impairment has lasted or is likely to persist for at least twelve months including progressive conditions at such time as the condition becomes substantially limiting;
- (2) Where the impairment is physical (including sensory such as hearing or sight impairments) and/or mental (a clinically recognised condition or illness that affects a person's thought processes, judgement or emotions); and
- (3) The impairment is substantially limiting and cannot be addressed through medical treatment or other means to limit the adverse effects and where in the absence of reasonable accommodation, the person would either be totally unable to do a job or would be significantly limited in doing the job.

Conditions which are not regarded as impairments include those:

- (1) Which are easily controlled, correct or lessened such that they have no substantially limiting effects e.g. use of hearing aid, use of glasses;
- (2) Which are public policy exclusions such as sexual behaviour that goes against public policy, those that self-inflicted for example, those caused through the use of illegal substances, compulsive gambling, tendency to steal or light fires and normal deviations in height, weight and strength.

Reasonable Accommodation:

Accommodation is any modification or alteration to the way a job is normally performed in order to allow the suitably qualified person with an impairment to perform.

Accommodation may also include any action on the part of the employer to reduce the impact of the impairment in such processes as recruitment and selection, performance assessments, training and development and employee benefits and conditions as well as within the work environment and in terms of the job. Such action must be reasonable and not impose an unjustifiable hardship on the institution.

Reasonable accommodation includes three inter-related factors:

- (1) Where the individual is suitably qualified for the job, there must be a removal of barriers to the individual performing the job;
- (2) The person with the disability must enjoy equal access to the benefits and opportunities of employment; and
- (3) Employers must adopt the most cost-effective means to achieve the above two objectives.

Appendix 1 provides examples of reasonable accommodation.

Unfair discrimination: This would occur when the impairment does not relate to an inherent job requirement and yet is used to deny an individual access to employment or to an employment benefit.

Unjustifiable hardship: Action that requires significant or considerable difficulty or expense that would substantially harm the viability of the institution. This would involve considering the impact of the accommodation and the extent to which it would seriously disrupt the operation of the institution.

3. POLICY IMPLEMENTATION

3.1 THE ACTIONS AND PROCESSES BY WHICH THE OBJECTIVES OF THE POLICY WILL BE ACHIEVED:

3.1.2 EMPLOYMENT PRACTICES

3.1.2.1 Recruitment and Selection

Consistent with the University's policies on the recruitment and selection of staff, applicants with impairments will not be unfairly discriminated against through the implementation of the following measures:

- (i) Use of job profiles which clearly state essential functions of the job and inherent job requirements
- (ii) Use of as wide variety of media as possible with an awareness of the need to reach this designated group
- (iii) Consistent treatment of all applicants at each stage of the selection process
- (iv) Fairly assessing applicants' suitability for the post and at this stage not being concerned with any impairment

On the application form, applicants are requested to indicate if they have impairments. This is to assist the University with the recording of its employment equity statistics and also allows for the Selection Committee to short-list such applicants for subsequent selection processes.

In addition, where the University is aware of an applicant's impairment at the time of short-listing and any subsequent part of the selection processes:

- (i) Reasonable accommodation, where necessary, will take place; and
- (ii) The impact of the impairment will be explored with the candidate to ascertain his/her specific needs. This will in no way impact the final selection decision but may impact whether or not an offer is made to the individual. For example, if the University would like to appoint the individual but is unable to reasonably accommodate the needs of the prospective employee as it would create an unjustifiable hardship, the decision to make an offer of appointment would need to be nullified.

- (iii) The University may request that a further medical or functional testing take place to determine the applicant's actual or potential ability to perform the essential functions of a specific job. In these instances, it would be considered a fair labour practice to only test those individuals with impairments and not all candidates. Such tests will only take place after the suitability of the person for the job has been determined.

Where an applicant has declined to reveal his/her impairment status during the application and selection process, reasonable accommodation measures will not be considered after appointment.

This is the responsibility of the Human Resources Division and staff requiring clarity on this process should contact the Division.

3.1.2.2 Impairment of current staff

Where a current staff member incurs an impairment during the course of employment with the University and it appears that the individual will not be able to perform his/her current job in terms of its current requirements, the institution may require the staff member to undergo a functional determination of the impairment. If such testing indicates that reasonable accommodation is required, the same procedures and processes will apply to this individual as to a new staff member (see points 3.1.2.3 to 3.1.2.8).

Every attempt will be made to re-integrate employees with impairments during employment, unless proposed accommodation results in unjustifiable hardship and therefore cannot be pursued. Where feasible, the University will offer alternative work, reduced work or flexible work placement and work hours, to try and maintain the employment status of the individual.

3.1.2.3 Ensuring a safe environment

In terms of the Occupational Health and Safety Act, the University must ensure that a safe working environment is provided. Should the employment of a person with an impairment present a direct risk of harm to his/her or others' safety, which could not be eliminated or reduced by applicable reasonable accommodation, that person cannot be employed in that post. In the case of current staff, the procedures below would apply (3.1.2.4 to 3.1.2.8) and termination procedures would be instituted.

Safety is the responsibility of the Safety Committee and staff and management that wish to explore issues of safety should contact this Committee.

3.1.2.4 Conditions of Employment

Consistent with current practice, the University will not employ people with impairments on less favourable terms and conditions because of their impairment. However, reasonable accommodation may require conditions of employment to be agreed in consultation with the prospective employee for example, hours of work and leave, job responsibilities and remuneration and benefits.

The Human Resources Division is responsible for ensuring that conditions of employment are fair.

3.1.2.5 Preparation of the work environment

Where there is a new staff member with an impairment or where a current staff member incurs a long-term or recurring impairment, the Human Resources Division must liaise with the necessary managers and Heads of departments/divisions/sections/units to ensure that the necessary discussion and where feasible, reasonable accommodation is undertaken timeously.

3.1.2.6 Training and Development

The University's Staff Development Policy makes a commitment to the removal of barriers to the training and development of staff. This would apply in the case of staff with impairments where every effort will be made to ensure that such opportunities are accessible to people with impairments.

The Human Resources Division will be able to explore these issues with staff and managers and is responsible for ensuring the removal of barriers to training and development opportunities.

Staff must also be sensitised and made aware of issues of disability in the workplace. Where a staff member with an impairment is to be placed in a department or where a current staff incurs an impairment and reasonable accommodation is required, briefing of staff should take place in a sensitive and appropriate manner as to ensure a welcoming and supportive environment.

3.1.2.7 Termination of Employment

Other than for work reasons (e.g. misconduct or incompetence that is unrelated to the individual's impairment) or operational reasons (e.g. retrenchment) where the proper processes will be followed consistent with the Labour Relations Act, the institution will only terminate the employment relationship if accommodating the individual will result in unjustifiable hardship.

In this instance, termination may take two forms:

- (i) Medical boarding where the individual is unable to continue to work in any capacity due to the impairment, OR
- (ii) Following the University's incapacity procedure on the basis that the staff member is now incapable of meeting the job requirements.

3.1.2.8 Confidentiality and disclosure

Consistent with the regulations of the Employment Equity Act 1998, the Human Resources Division will keep records of all staff members with impairments. These records will be confidential and will be used for no purpose other than reporting to the Department of Labour.

People with impairments are entitled to keep their status confidential but must recognise that under such circumstances, the University cannot accommodate the impairment. Where such accommodation requires the co-operation of other staff, it may be necessary to inform them of the impairment.

Where an individual has disclosed an impairment but it is not self-evident, the University reserves the right to require the person to disclose sufficient information to confirm the impairment and/or his/her needs in terms of reasonable accommodation. The information sought will be relevant to the specific job and functions. Where the determination of the impairment and its impact requires professional input, this will be sought from a trained professional identified by the University, after consultation with the staff member. Where input is required on the necessary reasonable accommodation for the individual, technical expertise may be sought.

The institution will not disclose any information relating to a person's impairment without the written consent of the person concerned.

3.1.2.9 Employment Equity Planning

Consistent with the requirements of the Employment Equity Act and the institution's own Equity Policy and Plan:

- (i) The institution's quantitative employment equity targets will include the targets for people with impairments
- (ii) The consultative forum overseeing employment equity issues within the institution includes someone from the constituency of staff with impairments
- (iii) An analysis on the barriers to the employment of people with impairments has been conducted and strategies identified to address these barriers
- (iv) The institution is concerned with retaining people with impairments and seeks to foster a culture that is inclusive of all staff irrespective of their status.

The Director of Human Resources is required to make sure that these measures are in place.

3.1.3 INDIVIDUALS RESPONSIBLE FOR IMPLEMENTATION

3.1.3.1 As regards employment practices, the responsibility for this falls to the Human Resources Division who are responsible for liaising with other relevant parties as regards meeting the needs of staff with impairments. The HR Division is also responsible for ensuring that staff are aware of this policy.

3.1.3.2 Heads of Departments/Division/Institutes are responsible for:

- An openness and commitment to accommodating the staff member with the impairment. This might involve the negotiation of flexible working hours and special needs in respect of medical consultations and treatment.

- Ensuring the education and counselling of existing staff regarding the particular needs of the staff member with the impairment in order to ensure acceptance and support and recognition of the unique qualities which such a staff member brings to the workplace.
- Liaising with Estates Division regarding physical access and other requirements as necessary.
- Liaising with the Finance Division regarding funds required for the purchase of any specialised equipment e.g. computer hardware or software, furniture and equipment.

3.1.1.3 Estates Division are responsible for:

- Modifying in so far as resources reasonably permit, physical access to and within buildings where possible or necessary.
- Where possible or necessary, modifying/making adaptations to facilities and equipment to accommodate staff with impairments.

3.1.1.4 Finance Division are responsible for:

- Ensuring that there is a budget for the purchase of specialised equipment.

3.2 RELATED POLICIES

The relationship between the policy and other policy and protocol documents needs to be borne in mind at all times.

Current documentation includes:

- Equity Policy
- Employment Equity Plan
- Policy for the Eradication of Unfair Discrimination and Harassment
- Recruitment and Selection Policy for Academic Staff
- Recruitment and Selection Policy for Support Staff
- Staff Development Policy
- Vision and Mission Statement

3.3 REVIEW PROCEDURE:

The HR Division is responsible for assessing adherence to the policy, identifying any problems with the current policy and procedures and therefore the identification of any changes that need to be made to the policy. In addition, other staff who serve on the various structures e.g. Employment Equity Committee can also raise issues of concern.

Appendix 1:

Examples of reasonable accommodation include:

1. Adapting existing facilities to make them accessible
2. Adapting existing equipment or acquiring new equipment including computer hardware and software
3. Re-organising work stations
4. Adjustments to work schedules
5. Changing training and assessment materials and systems
6. Restructuring jobs so that non-essential functions are reassigned
7. Adjusting working time and leave
8. Providing readers, sign language interpreters and
9. Providing specialised supervision, training and support.