



<u>Policy Title</u>	Employment of People with Disabilities
<u>CCMT Sponsor</u>	Director of Resources
<u>Department/Area</u>	Human Resources
<u>Section/Sector</u>	Diversity Team

1.0 Rationale

Thames Valley Police is firmly committed to providing equality of opportunity for members of staff. To achieve this, the force will strive to create and maintain an environment in which there is respect for each individual and recognition of his or her needs, aspirations and feelings. This policy promotes and contributes to making TVP a fully inclusive organisation. Recruiting from a wider pool of talent will attract and retain the highest quality candidates and provide a better representation of the communities we serve.

This document is based on the Disability Discrimination Act 1995 (DDA). The DDA was amended with effect from 1 October 2004, extending the scope of the Act to include police officers.

This policy is applicable to Police Officers, Police Staff, agency and contract workers.

2.0 Intention

The specific aims of the policy are to:

- Ensure that applicants and members of staff who have a disability are treated with fairness and support in their recruitment, deployment and development.
- Provide members of staff with information on their rights under the DDA
- Provide management guidance on the fair treatment of individuals with disabilities.
- Provide guidance on the application of reasonable adjustments.

3.0 General Principles

3.1 Introduction

The Disability Discrimination Act 1995 (Amendment) Regulations 2003 which came into effect on 1 October 2004 extended the provisions of the DDA to include police officers.

To assist in understanding and implementing the Act, the Disability Rights Commission (DRC) published a Code of Practice in 2004. The DRC code provides legal guidance and may be referred to in legal proceedings. The code can be found on the force intranet site Code of Practice or on the DRC Website.

In addition to the code the Home Office and ACPO, overseen by the staff associations, have produced specific guidance on the DDA for the police service. The Complete Works is a general guide which gives an introduction to the effect of the DDA on the police service. Further detailed guidance is published in five separate documents under the following headings:

- Pensions
- Recruitment
- Serving Officers
- Training
- Promotion, Selection and Appraisal

The Complete Works and the guidance documents can be found on the Force Intranet site in the policies and procedure section using the following link The Complete Works and also on The Home Office Website

3.2 Definition of Disability under the DDA

A disabled person is defined under the DDA as someone with *“a physical or mental impairment which has a substantial and long- term adverse effect on that person’s ability to carry out normal day- to -day activities”*. The Disability Rights Commission’s Code sets out information on the definition of disability to cover the large majority of cases. The following assistance is given in interpreting the expressions used:

- **Physical impairments** are impairments affecting the senses such as sight and hearing, or a weakening of part of the body through illness, by accident or congenitally. Individuals suffering from cancer HIV infection or Multiple Sclerosis are automatically covered by the Act.
- **Substantial adverse effect** means that the effect of the physical or mental impairment on the ability to carry out normal day-to-day activities must be more than minor or trivial. The person must be affected in at least one of the respects listed in the DDA – mobility, manual dexterity, physical co-ordination, continence, ability to lift, carry or otherwise move everyday objects, speech, hearing or eyesight,

NOT PROTECTIVELY MARKED

memory or ability to concentrate, learn or understand, or perception of risk or physical danger.

- **Long Term** means that the effect has to have lasted, or be likely to last overall for at least 12 months or for the rest of the life of the person affected. Where an impairment ceases to have a substantial adverse effect it is to be treated as having that effect if it is likely to recur.

Details of impairments that are covered by the DDA and conditions that are not covered are listed in Appendix B of the Code of Practice on the Force Intranet or the DRC Website

3.3 Disability Discrimination under the DDA

In relation to employment, the Act makes it unlawful for an employer to discriminate against a disabled person in relation to the recruitment or retention of staff. However the Act does not prohibit an employer from appointing the best person for the job, nor does it prevent employers from treating disabled people more favourably than those who are not disabled.

The four forms of discrimination that are unlawful are:

- Direct discrimination: less favourable treatment 'on the grounds of the disabled person's disability'. This can never be justified.
- Failure to comply with a duty to make reasonable adjustments. This can never be justified. The question is whether or not a particular adjustment is reasonable in all the circumstances.
- Disability related discrimination: less favourable treatment for a reason related to the disabled person's disability, but not the disability itself, and where the treatment was not justified
- Victimisation: when one person treats another (the victim) less favourably than he would treat another because he/she believes the victim either, has or intends to bring proceedings, or give evidence or information in connection with proceedings under the Act, or has made an allegation that a person has contravened the Act.

Under the Act harassment is also unlawful. *'Harassment occurs where, for a reason which relates to a person's disability, another person engages in unwanted conduct which has the effect of violating the disabled person's dignity or creating an intimidating, hostile or offensive environment for the disabled person.'*

The DDA is based on the principle of fair treatment. It requires the employer to make reasonable adjustments to remove barriers that prevent disabled people from competing for employment opportunities on equal terms with other applicants or members of staff. It also ensures that all employees are able to maximise their potential.

3.4 Responsibilities

Chief Constable

Under the DDA, the Chief Constable or the Police Authority, as applicable, will be liable for discriminatory acts affecting members of staff and applicants for employment and may also be vicariously liable for acts of discrimination committed by members of staff.

Managers and Supervisors

Line managers are responsible for ensuring that a disabled member of staff working with them is not the subject of discrimination. It is important that managers understand the DDA and how it impacts on their responsibilities to staff. Managers should establish the specific effects of an individual's impairment on their ability to do their job before considering any reasonable adjustments. Managers should always consult the member of staff with the disability and if necessary seek advice from the relevant source, for example HR/Personnel Department, Occupational Health, Welfare and Health and Safety.

All Staff

All members of staff must ensure that neither their actions nor their behaviour are discriminatory to disabled colleagues. All staff must be sensitive to any adjustments that may be required to allow colleagues to continue their role even where disabilities are not immediately apparent.

3.5 Confidentiality

Under the DDA members of staff are not compelled to inform the organisation that they have a disability. However, the DRC code states that the organisation has a duty to make an adjustment if it knows or could reasonably be expected to know that a member of staff has a disability and is likely to be placed at a substantial disadvantage. This means that if an agent or employee from the organisation, for example an occupational health adviser, or member of the personnel team knows of an individual's disability then the organisation cannot claim that it is unaware of the disability and is therefore obliged to make any adjustments considered reasonable to assist the member of staff with the disability.

In practical terms, if an individual with a disability expects the organisation to make a reasonable adjustment they need to provide TVP with sufficient information to make the adjustment. This need not include details of the symptoms and effects of the disability but only sufficient information to effect a reasonable adjustment. If however because of the nature of an individual's disability colleagues need to be informed of the effects or impact on day to day activities then the permission of the member of staff with the disability must be sought before disclosing this sensitive personal information.

3.6 Reasonable Adjustments

The DRC Code of Practice states that;

'the duty to make reasonable adjustments arises where a provision, criterion or practice applied by or on behalf of the employer, or any physical feature of premises occupied by the employer, places a disabled person at a substantial disadvantage compared with people who are not disabled.'

'Provisions, criterion or practice' encompass matters such as arrangements for determining to whom employment should be offered, and terms, conditions or arrangements on which employment, promotion, a transfer, training or any other benefit is offered or afforded.

The failure to provide reasonable adjustment(s) in these circumstances will be discriminatory. This duty is owed to both existing and prospective members of staff, including permanent and temporary members of staff, and contract workers.

Reasonable Adjustment covers the whole range of employment from recruitment to retirement or resignation. Examples of reasonable adjustments that specifically relate to the police service can be found in the ACPO and Home Office document The Complete Works paragraph 45 or The Home Office Website

4.0 Challenges & Representations

All challenges and representations should be made in writing to;

Head of Human Resources
Thames Valley Police
Oxford Road
Kidlington
OX5 2NX

5.0 Guidance, Procedures & Tactics

Contents

- 5.1 [Purpose of Guidance](#)
- 5.2 [Managing Staff with Disabilities](#)
 - 5.2.1 [Recruitment and Selection](#)
 - 5.2.2 [Probation](#)
 - 5.2.3 [Selection & Promotion](#)
 - 5.2.4 [Performance Development Review](#)
 - 5.2.5 [Attendance Management and Absence](#)
 - 5.2.6 [Health & Safety and Risk Assessments](#)
 - 5.2.7 [Access to Work](#)
 - 5.2.8 [Disability Employment Adviser](#)
 - 5.2.9 [Failure to Reach Agreement on the management of a member of staff's disability](#)
- 5.3 [Monitoring](#)
- 5.4 [Record Keeping](#)
- 5.5 [Useful Contacts](#)

5.1 Purpose of Guidance

The intention of this guidance is:

- To provide members of staff with information on the application of the Disability Discrimination Act (DDA) to police officers and police staff.
- To provide management guidance on managing staff with disabilities.
- This guidance aims to ensure that all members of TVP are aware of the implications of the DDA and do not act in a discriminatory manner.

5.2 Managing Staff with Disabilities

A brief summary of the process is illustrated in a flowchart in Annex A and the specific process for making reasonable adjustments is in Annex B

5.2.1 Recruitment and Selection

Under the DDA it is unlawful for an employer to treat a job applicant with a disability less favourably simply because of their disability. This

NOT PROTECTIVELY MARKED

type of discrimination is unlawful and cannot be justified. Each case should be looked at on its merits and all individuals should be assessed on whether, given reasonable adjustments, they will be able to do the job applied for. The DDA provisions cover all aspects of recruitment including role profiles, advertising vacancies, assessment, selection and induction.

Police Officers

National Recruitment Procedures apply in TVP; these procedures include a fitness test, assessment centre, interview and medical. Further specific information on recruiting officers with disabilities is available on the Force Intranet on DDA Recruitment or at the Home Office Website Home Office: Recruitment

Police Staff

When writing job adverts, job descriptions and person specifications it is important not to exclude a disabled candidate. When a post becomes vacant, the relevant manager must review the job description and the person specification to ensure that there is no inference of discrimination relating to duties, tasks and responsibilities of the job.

Concentrate on what is to be achieved in the job rather than how it is to be achieved. For example 'Must touch type', replace with 'you will need to produce accurate reports using a word processing package'. This will allow a candidate with visual impairment or repetitive strain injury (RSI) to demonstrate their ability to meet the criteria using voice activated software.

Our standard application forms comply with current legislation and ask for details of an applicant's disability so that we can identify any specific needs to assist candidates in the recruitment process.

All Staff

When a candidate with a disability is appointed to a post, the line manager should discuss with the individual any adjustments that may be necessary for the individual to conduct their role. This may include a risk assessment to establish how the working environment or arrangements could be adjusted to meet individual needs. This should be conducted at the workplace by the line manager with advice from Health and Safety Advisors. Further information on recruiting people with disabilities can be found on the Employer's Forum on Disability briefing paper number 15: A practical guide to managing recruitment. A copy may be obtained from the Employment Relations Team at HQ.

NOT PROTECTIVELY MARKED**5.2.2 Probation****Police Officers**

The DDA applies equally to student officers as to other officers. The force has therefore to make reasonable adjustments where a student officer is disadvantaged because of a disability. Reasonable adjustments should be taken into account when considering the possible discharge of a student officer under Regulation 13 of the Police Regulations 2003.

Police Staff

During the probation period reasonable adjustments for staff on probation must be put in place as the need arises. In the case of staff on probation with disabilities, reasonable adjustments must be taken into account before the termination of employment.

5.2.3 Selection and Promotion**Police Officers**

The underlying principles of the DDA regarding the promotion or selection of officers who have a disability or who are on restricted or recuperative duties remain the same. Officers with disabilities should have the same opportunities for promotion and moves to specialist posts as non disabled officers and each case must be determined on an individual basis. In the case of promotion and selection the questions that both the officer and line manager should be asking are:

- Does the officer's disability have any effect upon their ability to carry out their role?
- What reasonable adjustments must be made to remove any substantial disadvantage facing the officer and can further be made to assist the officer in carrying out their role?

Whilst this is a managerial decision, medical advice or professional evaluation may be necessary to identify the impact of any disability. Detailed information on promotion and selection can be found in the Home Office guidance: DDA Promotion. Selection and Appraisal on the Force Intranet or Home Office: Promotion, Selection and Appraisal on the Internet.

Police Staff

As with police officers recruitment managers must ensure that individuals with disabilities applying for internal posts have the same opportunity for advancement as non disabled staff. Again, if necessary, reasonable adjustments must be considered.

5.2.4 Performance Development Review (PDR)

The PDR includes development needs as an integral component. Care should be taken that members of staff with disabilities have equal and appropriate access to training programmes and career development opportunities.

If a disabled member of staff's performance is considered to be unsatisfactory, line managers should identify whether this might be due to the individual's disability, in which case reasonable adjustments will need to be made. Further information on Performance Development Review is available in the Home Office guidance document; DDA Promotion. Selection and Appraisal

5.2.5 Attendance Management and Absence

The majority of disabled people do not require any more time away from work than other employees. Although an impairment may impact on a person's day to day activities, it does not necessarily impact on their general health. Nevertheless, under the DDA there is a need to recognise that members of staff with disabilities may need time away from work, either to receive treatment for their disability or be absent from work as a result of their disability.

It is important to establish whether absence is disability related or not at an early stage. This is of particular importance where absence is used as a criterion for pay, sick pay, Competency Related Threshold Payments, Special Priority Payments, promotion and selection.

If there is any doubt as to whether a period of absence is disability related or not advice should be sought from the Occupational Health Department.

There are two types of absence to consider. One is **disability related leave** and the other is **disability related sickness** absence.

Disability Related Leave

Disability Related Leave is an example of a reasonable adjustment under the DDA and is used for the purposes of rehabilitation, treatment and assessment. It is for a **fixed** period or periods of time that the member of staff and the force know about in advance. In other words, there is a fixed end date for the leave. Disability leave is also suitable for absences of a short period of time that are needed on a regular basis.

NOT PROTECTIVELY MARKED

Line Managers receiving requests for Disability Related Leave should take advice from their HR/Personnel Manager, in recurring cases it is not necessary to refer to HR/Personnel every time.

Examples of disability leave:

- 1) A member of staff attends a four week residential course to be trained to use a new guide dog.
- 2) An individual requires a period of adjustment and rehabilitation following an accident that has resulted in a disability relating to mobility impairment (note: this individual will be covered by sickness absence during initial medical care and treatment; disability leave may be used following discharge from hospital in order to allow him/her to adjust to his/her living environment)
- 3) A member of staff with a disability needs 3 hours of physiotherapy every week for a fixed and agreed period of time e.g. Wednesday mornings for the next eight weeks.

Disability Related Sickness Absence

Sickness absences that are for a reason relating to a disability should be recorded separately from non-disability related sickness absences.

Sickness records are referred to at various times during an individual's employment (e.g. promotion). Recording disability related sickness absences separately from other types of absence allows the force to identify disability related sickness periods separately and to consider an appropriate reasonable adjustment of disregarding these absences when making decisions. It is not necessary in every case to disregard such absences but managers should consider whether it would be reasonable to do so. If a decision is made, for example, not to promote a member of staff because of his/her sickness record and those absences are because of a disability, the force may have treated the individual less favourably for a reason related to their disability. Such treatment can be justified but it will be more difficult to do this if it cannot be shown that the reasonable adjustment of discounting the absences was considered.

Disability related sickness absence can be long term and of known or unknown length, or periodic unpredictable absence.

Examples of disability related sickness absence:

- 1) A member of staff who has arthritis might be absent from time to time as a result of their condition. It is not possible to predict when and for how long the individual will be absent, so this is recorded as disability related sickness absence.

NOT PROTECTIVELY MARKED

- 2) A member of staff has multiple sclerosis. Absences caused by the condition are unpredictable and cannot be planned for and should be recorded as disability related sickness absence.

For further information and explanation on Disability Leave and Disability Related Sickness please use the following link: DDA Serving Officers (Attendance Management & Absence, and Recording Absence para 74-93), or on the Internet at Home Office: Serving Officers

For information on managing sickness absence please refer to the Sickness Management Policy and further information on disability related sickness absence and disability leave can be found on the HR Diversity Site.

5.2.6 Health and Safety and Risk Assessments

In some cases it may be necessary to conduct an individual risk assessment for a disabled member of staff or applicant to determine whether the individual's particular disability presents any increased risks either to themselves or others. Risk assessments must be specific to the individual, job role and working environment and must be conducted by a competent risk assessor. It is important to ensure that:

- The member of staff to which the DDA applies has a safe and healthy working environment and is not exposed to an unacceptable level of risk.
- Other members of staff are not placed at an unacceptable level of risk because of any reasonable adjustments that have been carried out.
- The need for a colleague to undertake additional tasks within their job role as a consequence of the reasonable adjustment does not place them at an unacceptable level of risk.

These assessments should be reviewed at regular intervals and particularly when a change occurs either in the individual's disability or condition or when the job role changes. Changes to the working environment new equipment or changes to policy and procedure may also require a new risk assessment.

Risk assessments provide valuable information to line managers on appropriate reasonable adjustments. For more information on risk assessments please refer to TVP's health and safety manual on the Health and Safety intranet site.

NOT PROTECTIVELY MARKED**5.2.7 Access to Work**

The Jobcentre Plus Disability Service provides help and guidance on overcoming practical problems resulting from Disability. As well as giving advice, Access to Work can assist in the funding for any necessary equipment required to make reasonable adjustments and also for transport costs to and from work if a member of staff with a disability is unable to use public transport.

Details of the services Access to Work provide can be found on the Jobcentre Plus website.

5.2.8 Disability Employment Advisor

Disability Employment Advisers (DEAs) are specialists in providing employment advice and help with employment opportunities for people with disabilities. DEAs can be contacted through your local Job Centre and can give advice on a range of issues which effect staff with disabilities. This includes; workplace assessments, guidance on the Access to Work scheme and financial assistance towards the cost of new or adapted equipment to assist a disability.

More information can be found on the HR Diversity intranet site.

5.2.9 Failure to Reach Agreement on the management of a member of staff's disability

There may be instances when a member of staff is unhappy about the way in which their disability has been managed. For example their concern may relate to the impact of their impairment on work or on the reasonable adjustments proposed by the force.

In the first instance the member of staff should discuss the matter with their line manager to establish the reasons for their dissatisfaction. If this fails a case conference should be held to discuss the situation. The conference should include a senior member of the personnel team, a member of the OH team, staff association representative and if necessary a DEA. Prior to the case conference the member of staff must be made aware of the type of detail that may be discussed and the explicit consent of the member of staff obtained before sensitive personal information (such as medical details) are released to the case conference attendees.

If a case conference fails to resolve the issues then it is open to the member of staff to raise the matter through the force's Conflict Resolution and Grievance Policy.

5.3 Monitoring

The force monitors the number of members of staff with disabilities and the reasonable adjustments that have been put in place on their behalf. This information is reported in the Diversity Monitoring Book in an anonymous format which is available on the Thames Valley Police Website

5.4 Record Keeping

Any action taken relating to risk assessments and reasonable adjustments for an individual with a disability should be recorded in writing and kept on the individual's personal file. Information concerning the medical details of an individual's disability is sensitive personal data under the Data Protection Act 1998 and will be held by the Occupational Health Unit in a secure manner, with strict access control measures in place.

5.5 Useful Contacts**Internal**

Employment Relations Team:	01865 855828 (700 5828) 01865 855827 (700 5827)
Occupational Health:	01865 846931 (705 6931)
UNISON:	01865 846584 (700 6584)
Federation:	01844 264985 (713 4985)
Health and Safety Department:	01865 846926 (705 6926)

External

Jobcentre Plus (To find local office):	www.jobcentreplus.org.uk
Disability Rights Commission (DRC):	08457 622 633 or www.drc-gb.org
Employers Forum on Disability:	020 7403 3020 or www.employers-forum.co.uk

6.0 Communication

6.1 Links to Police National Legal Database Other

Home Office Guidance Documents;

DDA The Complete Works
DDA Pensions
DDA Promotion. Selection and Appraisal
DDA Recruitment
DDA Serving Officers
DDA Training

Disability Rights Commission;

Code of Practice

6.2 Communications Strategy

All members of staff should be made aware of this policy and HR Managers and Diversity Advisers should have a more detailed knowledge of the processes.

Communication to all will be carried out via an **All User email** from the Diversity Team and will be published on the **Policies and Procedures intranet and internet site**.

An **email will be sent to all Personnel Handbook owners** informing them to update the folder. Diversity Advisers and HR Managers will receive a separate notification about the new policy.

7.0 Compliance and Certification

7.1 Human Rights Certification

(i) Legal Basis

Disability Discrimination Act 1995 (Amended) Regulations 2003
Disability Rights Commission Code of Practice 2004
Data Protection Act 1998
Human Rights Act 1998

(ii) Human Rights Articles Engaged

Article 8 Right to respect for Private and Family Life
Article 14 The Prohibition on Discrimination

NOT PROTECTIVELY MARKED**(iii) Prohibition of Discrimination**

There is potential to engage Article 14 of the Convention. All those involved in the application of this policy must ensure that actions taken as a consequence of this policy are applied fairly and impartially with due regard for natural justice and human rights.

The enjoyments of the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds.

7.2 Diversity Impact Assessment

A Diversity Impact Assessment has been carried out on this policy and it has been rated as "LOW" relevance to the six strands of Diversity.

7.3 Diversity (Human Resources)

In the application of this policy, the Force will not discriminate against any persons regardless of their gender, sexual orientation, race or ethnic origin, religion, age or disability.

7.4 Data Protection

It is recognised that information relating to an individual's disabilities is sensitive personal data under the Data Protection Act 1998 and subject to additional security and disclosure rules. All personal data processed in accordance with this policy will be managed in compliance with the principles of the Data Protection Act 1998.

7.5 Freedom of Information Act

This policy will be made available on the Thames Valley Police Freedom of Information publication scheme on the internet.

If you are accessing this policy on the Thames Valley Police Internet site and are unable to use the hyperlinks to the Force Intranet site, please contact the Employment Relations Team on 01865 855827.

7.6 Protective Markings

This policy is **NOT PROTECTIVELY MARKED**

7.7 Health & Safety at Work

Please see Section 5.6.2 for Health and Safety considerations.

8.0 Monitoring and Review

The force monitors the number of members of staff with disabilities and the reasonable adjustments that have been put in place on their behalf.

NOT PROTECTIVELY MARKED

This information is reported in the Diversity Monitoring Book in an anonymous format which is available on the force HR Diversity site.

8.1 Links to Best Value/PPAF/Priorities/Performance Indicators

This policy contributes to the Strategic Objective:
To equip our front-line staff to deliver on our objectives

8.2 Review Process**Full Review**

A full review will be carried out by the policy author on a 3 yearly basis or whenever relevant legislation changes, whichever is sooner. The policy author examine:

- Changes in legislation
- Court rulings – Domestic, European and Human Rights
- Examples of good practice from other Forces or other organisations
- Changes in Home Office Circulars
- Developments with ACPO Policy Unit
- Representations made by individuals and relevant organisations

For use by the Policy Management Unit Only**Policy Authorisation**

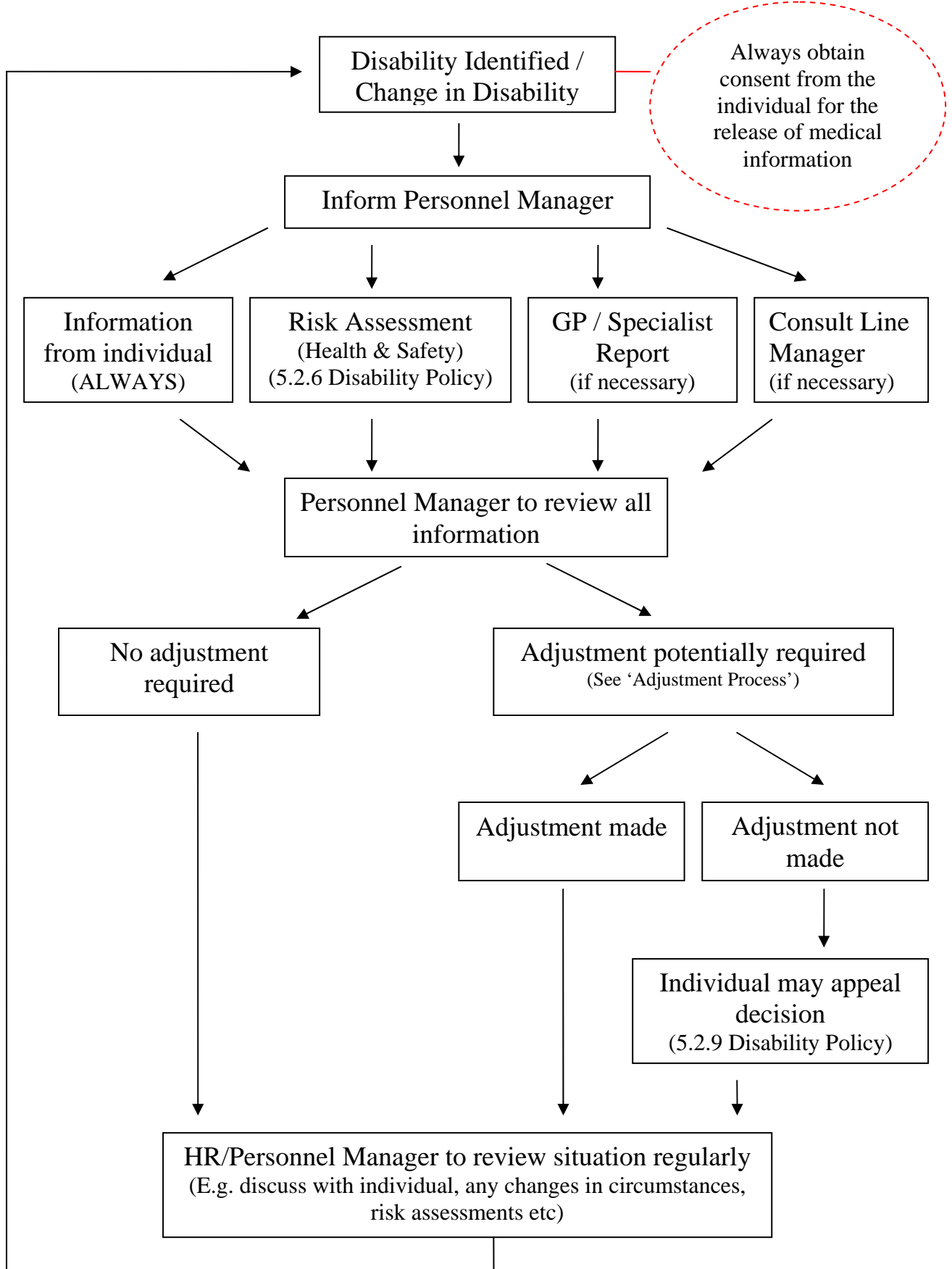
Policy signed off by:

(Director of Resources)

(Date)

APPENDICES

Annex A – The DDA Process



NOT PROTECTIVELY MARKED

Annex B – The Adjustment Process

