

**CODE OF GOOD PRACTICE FOR THE EMPLOYMENT OF PEOPLE  
WITH DISABILITIES**

**BUREAU DECISION**

**OF 22 JUNE 2005**

THE BUREAU of the European Parliament

Having regard to the Treaty establishing the European Community, and in particular Article 13 thereof,

Having regard to Article 1d of the Staff Regulations,

Having regard to the Council Directive establishing a general framework for equal treatment in employment and occupation<sup>1</sup>,

Having regard to the existing Code of Good Practice for the Employment of People with Disabilities, adopted by the Bureau of the European Parliament in January 2000<sup>2</sup>

Having regard to the Commission Decision of 25 November 2003 on a Revised Code of Good Practice for the Employment of People with Disabilities,

Having regard to the opinion of the Legal Service,

Whereas:

- (1) The Commission's *Consultative Document on Improving Working Arrangements and Career Perspectives for People with Disabilities*<sup>3</sup> provides that "a more pro-active approach should be adopted to the implementation, evaluation and monitoring of the Code of Good Practice, with greater involvement of disabled staff",
- (2) The Employment Guidelines for 2000 agreed by the European Council at Helsinki on 10 and 11 December 1999 stress the need to foster a labour market favourable to social integration by formulating a coherent set of policies aimed at combating discrimination against groups such as persons with disability,
- (3) The Council Directive establishing a general framework for equal treatment in employment and occupation and the Employment Guidelines for 2000 do not apply to the Community Institutions, the Commission has stated in the Reform that it should "offer its staff at least the same opportunities and levels of protection in these areas as apply in Member States"
- (4) The European Parliament's resolution of 9 March 2005 on budget guidelines 2006 and on the European Parliament's preliminary draft estimates<sup>4</sup>, calls on the institutions to give an overview by 1 September 2005 of measures taken to overcome obstacles to

<sup>1</sup> 2000/78/EC

<sup>2</sup> PE 282.903/BUR

<sup>3</sup> SEC (2000) 2084/4

<sup>4</sup> A6-0043/2005, paragraph 9

equal treatment as defined in Article 13 of the EC Treaty, taking account of the possibilities offered by the new Staff Regulations,

ADOPTS THE FOLLOWING CODE OF GOOD PRACTICE:

### **Article 1 - Introduction**

The European Institutions are committed to providing equality of access to employment in the European Public Service. A Public Service that reflects the diversity of the community it serves is better able to deliver quality services to the European citizens. Apart from the objective merits of equality, any organisation that claims to be progressive and forward-looking must seek to optimise the potential contribution of its entire recruitment base by ensuring equal access.

European statistics show that there are too few people with disabilities in employment by comparison with the number of people with disabilities of working age. It is the European Institutions' policy to promote a diverse and skilled workforce, to improve employment access and participation by people with disabilities, to eliminate discrimination in the workplace and to promote a workplace culture based on fair workplace practices and behaviour.

In pursuing this policy, due regard should be given to the Commission Communication "Towards a Barrier Free Europe for People with Disabilities"<sup>5</sup>. The "Design for All" principle must also be applied. "Design for All" is a relatively new approach that consists of designing, developing and marketing mainstream products, services, systems and environments that are accessible by as broad a range of users as possible. Failure to apply the design for all principle and to take peoples' needs into account in the planning, design and adaptation of environments can force people unnecessarily into a situation of dependency and social exclusion.

The purpose of this CODE OF GOOD PRACTICE is to provide a clear statement of the European Institutions' policy in relation to the employment of people with disabilities and ensure that all staff in the European Institutions comply with their legal and statutory obligations under anti-discrimination provisions and carry out their duties in a manner which is consistent with good equal opportunities practice. To this end, adequate resources will be re-allocated, wherever necessary, by all DGs and services in order to ensure the effective implementation of this Code of Good Practice.

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<sup>5</sup>

COM(2000) 284 final of 12.05.2000

## **POLICY STATEMENT<sup>6</sup>**

*The European Institutions are committed to promoting equal treatment, irrespective of gender, race, colour, ethnic or social origin, genetic features, language, religion, convictions, political opinions or any other opinions, membership of a national minority, wealth, birth, age, disability or sexual orientation, by adopting workplace rules, policies, practices and behaviour, where all workers are valued and respected and have opportunities to develop their full potential and pursue a career of their choice. They are entitled to a working environment free from discrimination and harassment and where barriers to participation are identified and removed. These principles help the European Institutions to attract and retain the best people to deliver a high-quality service to European citizens.*

In pursuit of these standards, the following provisions relating to the employment of people with disabilities have been inserted into Article 1d (4) of the Staff Regulations<sup>7</sup>:

*“... a person has a disability if he has a physical or mental impairment that is, or likely to be, permanent. The impairment shall be determined according to the procedure set out in Article 33.*

*A person with a disability meets the conditions laid down in Article 28(e) if he can perform the essential functions of the job when reasonable accommodation is made.*

*“Reasonable accommodation”, in relation to the essential functions of the job, shall mean appropriate measures, where needed, to enable a person with a disability to have access to, to participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer.”*

### **Article 2 - Scope of the Code**

People with disabilities are not only those whose disability is immediately apparent. While many disabilities are not obvious they may, nonetheless, require certain accommodation. It is also recognised that the same disability can vary in its severity and affect the individual to a different degree and at different times and that a disability may be temporary in nature.

This code covers those who have a disability during the recruitment process, those who have a disability at the time of initial appointment and those in whom the disability develops during employment. The European Institutions will seek to adjust to any new circumstances in a supportive and sensitive manner.

The scope of the code does not encompass topics such as the special medical allowance for people with disabilities or the special budget for officials' children who have disabilities and related school allowances.

### **Article 3 - Work-related accommodation**

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<sup>6</sup> The 'discriminatory grounds' set out in this Policy Statement are those included in the current Staff Regulations, which entered into force on 1st May 2004.

<sup>7</sup> Cf. article 1c of the Staff Regulations: “Any reference in these Staff Regulations to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the context clearly indicates otherwise.” In consequence, while the Code is drafted in gender-neutral terms, extracts from the Staff Regulations are not.

**It is the European Institutions' policy to provide reasonable accommodation in employment in order to meet the needs of people with disabilities and of the Institutions. For the purposes of the present code, it shall be for the Institution to demonstrate that providing the necessary accommodation imposes an unreasonable burden.**

It is recognised that the majority of people with disabilities do not require any form of special aid or adaptation to perform their work. However, people can do the same job in different ways to achieve the same result. Enabling a member of staff to perform well in a job by making a work-related accommodation is therefore entirely consistent with the merit principle. In order to ensure and facilitate the provision of accessible accommodation, the Institutions will have to anticipate some fundamental well-known needs following the "Design for All" principles, especially when new infrastructures are being developed.

Directive 2000/78/EC, establishing a general framework for Equal Treatment in Employment and Occupation, states that employers shall take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. This is also the basis of the European Institutions' policy on work-related accommodation.

Accommodation applies to all areas of employment, including:

- recruitment, selection and appointment,
- career development,
- training, and
- promotion, transfers or any other employment benefit
- social relationships within the Institutions.

Accommodation is a way of changing the workplace and may include:

- job redesign,
- purchasing or modifying equipment,
- flexible working arrangements.

The accommodation required is to be determined by the particular needs of the individual and will normally be provided. If providing accommodation would impose a disproportionate burden on them, the European Institutions may decline to offer employment to a person with a disability. Stringent standards, which have to be defined, are to be applied when assessing what is a disproportionate burden for the European Institutions. This is without prejudice to the right of administrative appeal.

#### **Article 4 - Recruitment**

The European Institutions have a policy of equality of opportunity and selection on merit by means of fair and open competitions. Recruitment and selection procedures are adapted to ensure that they do not disadvantage candidates with disabilities. People with disabilities are also encouraged to apply by a positive reference to the equal opportunities policy in advertisements for posts and by the dissemination of notices about forthcoming competitions to specialist publications and organisations such as the European Disability Forum, which is representative of NGO disability groups in the Member States and the European Agency for the Development of Special Needs Education. Positive action shall also be taken in the field

of administrative 'stagiaire' recruitment as well as at the level of interim or temporary contracts.

Accordingly, recruitment procedures will include the following:

- **Press publicity** for competitions will include a statement affirming the Institutions' commitment to equality of opportunity for all candidates.
- **The Guide for Candidates** appearing in the Official Journal with the Notice of Competition will contain a paragraph specifically aimed at candidates with disabilities, mentioning the CODE OF GOOD PRACTICE.
- **Application forms** will request candidates with disabilities to detail the accommodation they require to enable them to participate in the tests on an equal basis with other candidates and every effort will be made to satisfy all reasonable requests.
- When a person with a disability is attending for **competition or interview**, the Secretary of the Selection Board, under the authority of the Chairperson, is responsible for ensuring that appropriate arrangements are made for the reception of that person and for the provision of any assistance that may be required, e.g. access to buildings, special equipment, extra time during competitions, etc.
- **Training** given to members of Selection Boards will include a module on disability awareness and the contents of this CODE OF GOOD PRACTICE. .
- A **website** will be set up in accordance with the most up-to-date accessibility standards, to enable access by the widest possible audience.

### **Article 5 - Careers**

Once candidates with disabilities are on a reserve list, they may avail themselves of specialist advice in securing a post. DG Personnel of the European Parliament and EPSO will conduct an ongoing audit of the number of candidates with disabilities in competitions, the number who pass and the number who are subsequently recruited.

Having been recruited, officials with disabilities have the right to fully develop their potential. Care is taken at all stages during the career of an official with disabilities to ensure the avoidance of job requirements that, whether intentionally or otherwise, are not job-related and therefore discriminate against people with disabilities.

- **Initial Appointment and Probation:** The Appointing Authority uses its best endeavours, in co-operation with the Medical Services and/or the Equal Opportunities Service of DG Personnel, to ensure that candidates with disabilities placed on a competition reserve list are offered appropriate posts. In accordance with Staff Regulations, all successful candidates in a competition have their capacity to carry out their duties confirmed by a medical assessment. When appointing a person with a disability or determining their capacity to continue duty, care is taken to avoid discrimination based on disability. The aim is to ensure that the person is qualified for employment and to verify that he/she can perform the essential functions of the job, without prejudice to the obligation of providing reasonable accommodation and having regard to the kind of disability. If, during the probationary period,

it is verified that the job assigned to a successful candidate is incompatible with his/her disability, mobility will be considered.

- **Career Guidance:** The Career Guidance and Counselling Service can play an important role in counselling staff with disabilities on their career development and they should receive the appropriate training. The best approach would be to recruit a counsellor specialised in vocational and rehabilitation counselling, who would link, as appropriate, with other relevant services.

- **Career development:** Every effort is made to ensure that staff with disabilities have the same opportunities as others to increase their experience and develop their career by means of mobility within the Institutions. Providing for career development may include adjusting other posts so that members of staff with a disability can act in different or higher positions to develop new skills.

- **Training:** Staff with disabilities have the same access to training as other staff. The acquisition of new skills and knowledge is an important prerequisite for the career development of all officials. Every effort is made to enable staff with disabilities to participate in training courses and programmes organised by the particular institution. Where in-house training is unavailable or inappropriate, reasonable measures may be taken to provide training externally.

- **Staff assessment and Promotion:** disability does not constitute a reason for assessors and promotion committees to depart from the normal objective criteria used to judge the merits of officials.

- **Retention of Staff:** If a staff member acquires a disability, or an existing disability becomes more severe, the European Institutions take steps to try to enable the staff member to remain in employment. In consultation with the person, accommodation to facilitate their retention is considered, including restructuring that person's job, providing retraining or redeployment to a suitable post. Where necessary, such arrangements can be reviewed. Medical retirement procedures are undertaken in full consultation with the staff member where it is decided that adjustments cannot be made to allow the employee to remain in his/her post and a suitable, alternative, post is not available.

## **Article 6 - Working environment**

The Institutions ensure that all reasonable measures are taken to eliminate physical or technical environmental barriers that may face some staff with disabilities:

- **Buildings:** All new buildings to be occupied by employees of the Institutions have to comply with the relevant national local legislation in respect of the access and utilisation of public buildings by people with disabilities in order to ensure seamless mobility. Buildings without suitable access, or buildings falling below a reasonable level in this respect, are progressively improved, subject to the availability of budgetary provision, or abandoned. Pending the adoption by the Institutions of revised criteria governing the adaptation of their buildings, the principles contained in the latest edition of the Commission document "Immeuble-type" will apply. The Institutions are taking all reasonable measures to ensure that officials with disabilities are allocated office accommodation compatible with their particular needs, including the provision of designated parking, where necessary. Emergency facilities

must be appropriate to all officials with disabilities. The Unit for Prevention and Well-Being at Work will continue to regularly audit buildings to determine improvements that should be made.

- **Office environment:** Care must be taken to ensure that the office environment is suited to a person with specific needs. The European Parliament will designate a specialist who will make an ergonomic appraisal of the office environment prior to newly-recruited staff members with disabilities commencing their employment and whenever a staff member with disabilities moves office.

The specialist will periodically inspect the office of all staff members with disabilities, will recommend appropriate changes, as needed, and will regularly inform the Directorate-General for Personnel, as well as the Interservice Working Party on the Accessibility of People with Disabilities, of the relevant findings.

To ensure the provision of reasonable accommodation, specific technical measures need to be taken as a precondition to an accessible environment. It is essential that information technology tools, including Intranet, applications and databases are developed following "Design for All" principles and accessibility guidelines. Electronic information and data should be available in accessible formats. The purchase of the appropriate tools and the training of personnel is an essential precondition.

Officials with disabilities are consulted about special equipment or furniture that might enhance their efficiency and effectiveness in the performance of their duties. The Institutions accept all reasonable requests for such items.

- **Meetings, etc.:** Care is taken to ensure that people with disabilities can fully participate in meetings or other fora by avoiding the inappropriate use of presentation aids or other media and by ensuring the availability of relevant material in accessible formats.

- **Flexible work:** Where reasonable, flexible working arrangements are made to meet both the Institution's work requirements and the particular needs of an official with a disability. Examples are:

- *flexible starting and finishing times to accommodate the difficulties some people with a disability have getting to and from work using public transport,*

- *regular short breaks to assist people who require periodic medication or rest periods,*

- *part-time work; teleworking, with adequate technological supports provided by the employer.*

## **Article 7 - Information and Awareness Training**

This CODE OF GOOD PRACTICE will be brought to the attention of all staff by the Equal Opportunities Service and by the human resources units of DGs. It is available in all EU languages on the EUROPA web site, on the Intranets of the Institutions and their Offices and Agencies and is distributed to all Human Resources Management staff and to senior and middle management staff. Wherever possible, the Institutions will seek to make information services and documentation accessible to different groups of people with disabilities, taking into account language and cultural needs.

Training courses which deal with the question of disabilities in depth will be targeted at those most particularly involved, e.g. staff with HR responsibilities, local career guidance staff, relevant Heads of Units, and members of Selection Boards.

## **Article 8 - Monitoring**

An essential element in the implementation of this CODE OF GOOD PRACTICE is continuous monitoring of how it is performing, thus ensuring that improved procedures for its better application are introduced at all levels, including the recruitment process and throughout an official's career. In the event of complaints, it will be for DGs to show that they meet the requirements of people with disabilities. The Equal Opportunities Service and the Interservice Working Party on the Accessibility of People with Disabilities will discuss and fix targets to achieve barrier-free conditions.

A disability audit, under which directorates-general conduct a survey of their employees, who will declare if they believe that they have a disability, is conducted regularly and the results reported to DG Personnel. The purpose of collecting this information is to:

- ensure that appropriate consultation takes place with all relevant staff;
- eliminate discrimination and barriers to equal opportunities for staff with disabilities;
- identify what accommodation might need to be provided when interviewing or employing a person with a disability;
- develop the full potential of all staff and ensure equality of opportunity in career development.

The data are used to produce anonymous statistical reports to enable Institutions to assess if the non-discrimination policy and this Code are working effectively and to help frame new initiatives. Having due regard to the provisions of the Data Protection Regulation concerning the processing of personal data by the Community Institutions<sup>8</sup>, the information gathered in the audit will not be used for any other purpose. Statistics regarding the number of staff with disabilities will be published.

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<sup>8</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L8, 12.01.2001, p. 1)

The **Interservice Working Party on the Accessibility of People with Disabilities** is also forwarding the direct input received from staff with disabilities in the DGs on questions of working conditions, accessibility, recruitment and career development to DG Personnel.

Additionally, the Equal Opportunities service of DG Personnel may be approached on a confidential basis if matters of dissatisfaction arise in relation to the implementation of this Code in the European Parliament. The Service pursues the issues discreetly, with due regard to the level of confidentiality sought.