

## **USING THE WDES TO BARGAIN FOR DISABLED WORKERS RIGHTS**

### **A guide for NHS branches in England**

#### **What is the WDES?**

The Workplace Disability Equality Standard (WDES) is a set of ten measures (or 'metrics') that compare the experience of disabled staff in the NHS to non-disabled staff. It is written into the standard NHS contract and applies to NHS trusts and foundation trusts in England. It will also allow comparisons between the experience of disabled staff in different trusts and in different regions. It should allow branches to easily identify whether their trust has a problem when it comes to treating disabled staff fairly.

#### **How can the WDES help the branch?**

The WDES offers branches the opportunity to encourage NHS employers to agree policies and procedures that will improve the working lives of our disabled members. It can be used as a lever to agree policies such as a Disability Leave policy or a Reasonable Adjustments policy or Passport. If these policies are in place it can significantly reduce the time branch stewards spend on individual casework.

#### **Why is the WDES needed?**

We know that there are low levels of senior staff in the NHS who identify as being disabled. The annual NHS Staff Survey has also consistently shown that disabled staff are more likely to feel bullied by their manager, more likely to feel pressured to work when unwell and less likely to feel the organisation acted fairly with regards to career progression compared to non-disabled staff. In addition, only 3.7% of NHS staff identify as disabled on the NHS formal record system but in the Staff Survey 20% identified as disabled. This may be because staff do not feel able to tell the NHS they are disabled due to stigma and discrimination. The WDES has been designed to try to address these issues.

#### **How to use the WDES to bargain with your Trust**

There is no "punishment" if a Trust has WDES results that show a big gap between the experience of disabled staff and their non-disabled colleagues. However, NHS trusts are supposed to publish their WDES data on their websites so there is a "name and shame" approach.

## What does the WDES measure?

There are ten measures covered by the WDES which compare disabled and non-disabled staff:

1. Distribution of disabled staff by pay grade - is there a disability pay gap?
2. Likelihood of being appointed to post from shortlisting - are disabled staff being discriminated against at interview (including promotion)?
3. Likelihood of being subject to a formal capability procedure - are disabled staff unfairly being subjected to capability when they may need reasonable adjustments? (This measure is not available publicly on an individual Trust basis but you can still ask your employer for it directly)
4. Experience of harassment, bullying and abuse from managers colleagues and the public and whether this was reported - is disability harassment being brushed under the carpet?
5. Opportunities for career progression and promotion as measured by staff survey
6. Pressure to come to work when sick as measured by staff survey – are disabled staff afraid to take sick leave because there is no disability leave policy in place?
7. Satisfaction with how their work is valued as measured by staff survey
8. Percentage of disabled staff who say their employer has made adequate adjustments so they can carry out their job (applies to disabled workers only but can be compared to other trusts)
9. A) Engagement score of disabled staff compared to non-disabled staff and the overall engagement figure for the Trust  
B) Has the trust taken action to facilitate the voices of disabled staff being heard? Yes or No answer with at least one practical example required, e.g. Disabled Staff Network.
10. Percentage difference between disabled staff on the Board and disabled staff overall.

## What must NHS Trusts in England do?

NHS Trusts must complete the WDES spreadsheet with all ten of the metrics. Metric 3 on the capability process was voluntary in the first year but is now compulsory. Trusts must also give an example as to how they have facilitated the voices of disabled staff for metric 9B. And most importantly, Trusts must produce a prioritised action plan.

The WDES guidance states that trusts **must** include trade unions in this process. They must engage staffside organisations in preparation

for and promotion of the WDES and they must gain input from the unions on their prioritised action plan.

## **What should branches do first?**

- Find out who in your organisation is the lead officer for the WDES and ask how they plan to involve UNISON
- If they have answered Yes to 9b on disabled workers' voices, what example are they giving? Is it an answer the branch agrees with? Ask them what plans they have to work with trade unions to facilitate disabled workers voices.
- Ask them how they intend to involve UNISON in drawing up the prioritised action plan – remember they are supposed to get our input.
- Actively encourage members to complete the staff survey as much of the WDES uses the findings of the staff survey so the more disabled staff who fill it in the better.

## **What should branches do with the published WDES metrics?**

The WDES results have been published annually since 2019, broken down by region and by type of trust, e.g. acute, ambulance, etc. Although trusts are supposed to publish their WDES metrics on their website this has not always been the case. In 2022, using 2021 data, trust-level results were published for the first time. This now allows meaningful comparisons. Branches should:

- Download the data for your branch at:  
**<https://www.england.nhs.uk/publication/workforce-disability-equality-standard-2021-data-analysis-report-for-nhs-trusts-and-foundation-trusts/>**
- Check how your trust compares – are there areas where your trust performs better than others and maybe there is best practise you can share with other branches? Or are there areas where your trust is performing worse than other Trusts?
- Think about what policies might help to address those metrics where there is a problem.
- Work with disabled members in the branch to put together a list of 'asks'.
- This could include negotiating new policies such as a Disability Leave policy or a reasonable adjustment policy or passport. Or it could include re-negotiating existing policies such as the attendance or sickness policy so there is an adjustment to the sickness trigger for disabled staff and a right to disability leave.
- Think about ways UNISON could ensure the voice of disabled trade union members are heard such as setting up a disabled members branch self organised group and electing a disabled members rep.

## **Are there examples of what we can do?**

- Check your Trust's scores for metric 4 which is about bullying and harassment. How do they compare with other Trusts? Is your employer doing worse than the average? If so ask for a meeting with the Trust to discuss this. Do policies need to be made stronger? Are reporting mechanisms clear and confidential enough? Ask for an action plan to address these issues.
- Take a look at metric 7, whether disabled workers are getting the reasonable adjustments they need. Ask the Trust to consider agreeing a Passport system so that this score can be improved with great consistency and fairness in decision making.

## **Can the data help with casework?**

Although UNISON is hoping branches will use the data most powerfully when it comes to bargaining and agreeing new policies that can improve the working lives of all disabled workers in your Trust, the data can also help with casework. For example:

- A disabled member is being harassed by patients and their manager is ignoring their complaints. Check the Trust's scores under metric 4a (harassment by the public) and use this to back up your case that the employer is not doing enough.
- A disabled member feels they have been unfairly turned down for promotion. Check the Trust's score for metric 5 (equal opportunities for career progression) and include this as evidence that the Trust treats disabled staff unfairly when it comes to promotions.
- A disabled member has been called to a formal sickness absence meeting. Get the Trust's score for metric 6 (pressured to go to work when sick) to demonstrate that the Trust is putting disabled workers at risk by taking a punitive approach to sickness absence.

## **What is the annual timetable?**

The WDES collection period for all trusts and foundation trusts in England runs from 1 July to 31 August each year. Trusts are expected to send their completed returns to NHS England by October and to publish a copy on their website.

## **Where can I find further information?**

All of the NHS guidance is available at:

[england.nhs.uk/about/equality/equality-hub/wdes/](https://england.nhs.uk/about/equality/equality-hub/wdes/)

Key UNISON resources include:

Disability Leave Bargaining guide:

<https://shop.unison.site/product/disability-leave-bargaining-guide-and-model-policy/>

Proving Disability and Reasonable Adjustments:

<https://shop.unison.site/product/proving-disability-and-reasonable-adjustments/>

Quick Guide to Reasonable Adjustments:

<https://www.unison.org.uk/quick-guide-reasonable-adjustments/>

Quick Guide to Access to Work:

<https://www.unison.org.uk/quick-guide-access-work-2/>