

# MAKING CONTACT – MODEL LETTER TO EMPLOYERS

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This model letter has been drawn up to help initiate a conversation between union branches and their employer. Please review and amend it as required to suite your own circumstances.

Dear

**Re: Neurodiversity in the workplace**

As you will be aware, neurodiversity in the workplace is an issue of growing importance for employers.

[Specific concerns have been raised by GMB members, and] studies suggest that over a tenth of working-age people have conditions such as autism, ADHD, dyslexia and dyspraxia.

Despite a number of high-profile employment tribunal cases, most employers still do not have a neurodiversity policy. The CIPD advises that ‘more needs to be done to support neurodiversity at work.’

As workforce representatives, we believe that establishing a policy would be in the interests of both [EMPLOYER NAME] and our members.

Please find a draft neurodiversity policy attached, which we hope will provide a basis for discussion.

This model policy has been drafted by GMB to provide a structure through which [EMPLOYER NAME]’s obligations under the Equality Act 2010 can be fulfilled.

I look forward to agreeing a time when this matter can be discussed further.

Yours sincerely

# MODEL NEURODIVERSITY EMPLOYER POLICY

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## 1. Introduction

This policy represents an agreement between [ ] ('the Employer') and GMB ('the Union') that was reached on xx/xx/xxxx.

The policy covers the agreed approach of the Employer towards workers, and potential workers, who are neurodivergent, or who believe that they may be neurodivergent.

The scope of this policy covers conditions including, but not limited to: autism spectrum conditions, ADHD, dyslexia, dyspraxia, and dyscalculia (see the appendix to this agreement).

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## 2. Principles

Both parties to this agreement believe that:

- a. All workers deserve opportunities, encouragement and support to realise their full potential
- b. A diversity of cognitive approaches is a source of great strength and value within a genuinely inclusive workplace
- c. All reasonable steps must be taken to ensure that policies, practices and culture do not discriminate against neurodivergent people

Both parties recognise that:

- d. Neurodivergent people may not have a formal diagnosis or assessment, that a lack of diagnostic support can be a barrier within the workplace for both workers and employers, and that workers must not be subject to unfavourable treatment if they choose to disclose a neurodivergent condition
- e. People who are neurodivergent can face discrimination and stigma in wider society, that they may be unwilling to disclose a diagnosis or assessment, and that workers must not be subject to unfavourable treatment because they choose to not disclose a neurodivergent condition

- f. Each person is unique and that there can be a high degree of overlap between neurodivergent conditions, and that consequently any support needs must be identified and implemented on the basis of personal evaluation and individual consultation – not assumptions or stereotypes

Both parties commit to:

- g. Support workers to obtain a diagnosis or assessment should they want one
- h. Encourage early disclosure within a genuinely supportive and inclusive environment
- i. Work to eliminate barriers (including prejudice) that neurodivergent people can face in the workplace
- j. Take all reasonable steps to ensure that internal communications, training programmes, and testing requirements (such as to complete training courses) are accessible for neurodivergent workers
- k. Raise awareness of neurodiversity in the workplace
- l. Consider changes made in response to requests and take steps to eliminate potentially discriminatory practices in the course of day-to-day activities.

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### 3. Getting and disclosing a diagnosis or assessment

The Employer agrees to consider all requests for support for the purpose of obtaining a diagnosis within a timely fashion. Such support may be in the form of time off work to attend appointments, the provision of information, and funding for assessments by appropriately qualified persons.

The Employer will agree to all reasonable requests for diagnostic support within a timely fashion. If a request is refused, the Employer will explain its reasons for doing so in writing.

If the Employer intends to refuse a request on cost grounds and the worker is a member of the Union, the Employer will agree to first enter into discussions with the Union to identify options for funding an assessment, if such a discussion is requested by the worker.

Funding for accessing a diagnosis or assessment, where it is provided by the Employer, will not be restricted to workers against whom capability proceedings have been initiated, or are likely to be initiated.

A process will be established and publicised to encourage workers to disclose neurodivergent conditions to the Employer, although it is also recognised that workers are under no legal or professional obligation to disclose a neurodivergent condition.

As neurodivergent conditions are lifelong, the Employer will accept previous assessments undertaken by appropriately qualified persons as sufficient evidence that a worker is neurodivergent. Such assessments may include reports by specialist consultants, educational psychologists' reports, specialist Statements of Special Educational Need ('Statements') and Education, Health and Care Plans ('EHCPs').

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## **4. Access to Work and Workplace Needs Assessments**

The Employer will take all reasonable steps to assist workers with applications for Access to Work ('AtW') support (if such support is requested), and to facilitate Workplace Needs Assessments which may be conducted by AtW or independent consultants.

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## **5. Reasonable adjustments**

The Employer recognises that most requests for reasonable adjustments are not expensive or difficult to implement, and also that such adjustments can make a significant difference to the wellbeing and performance of neurodivergent workers.

The Employer will consider all requests for reasonable adjustments and respond to them in a timely fashion.

The Employer will give equal consideration to requests for reasonable adjustments that are made by neurodivergent worker. The Employer recognises that neurodivergent workers often have a clear prior understanding of the reasonable adjustments that would best support them, and that many neurodivergent workers will not require an external assessment of workplace needs.

All clear recommendations for reasonable adjustments that are made by an appropriately qualified person will be implemented unless there are exceptional reasons to not do so.

If a request for a reasonable adjustment is refused, the Employer will set out their reasons for doing so in writing in a timely fashion.

If there are compelling reasons for not accepting a request for a reasonable adjustment, the Employer will try to identify alternative reasonable adjustments that achieve that same aim.

The signatories to this agreement recognise that many neurodivergent workers have developed coping strategies and that not all neurodivergent workers will require reasonable adjustments. The signatories further recognise that neurodivergent workers may have dual or multiple diagnoses or assessments, and that reasonable adjustments should be based on the needs of the individual.

If a worker considers that a recommendation for a reasonable adjustment made in their case is inappropriate for any reason and does not want that recommendation to be implemented in their case then that will constitute an 'exceptional reason' for refusing a recommendation. No worker will be forced to comply with a reasonable adjustment recommendation against their will. In these circumstances, a written record of refusal (or discontinuation) of a reasonable adjustment will be kept.

The Employer recognises that there may be workers who, while not neurodivergent themselves, may have caring responsibilities towards people who are neurodivergent (such as parents of children identified as having special educational needs). Every reasonable effort will be made to accommodate requests for leave (or similar requests) that are made in connection with those responsibilities, and workers in this position will more generally be treated no less favourably than their counterparts who do not have caring responsibilities towards neurodivergent people.

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## **6. Performance management and capability proceedings**

The signatories to this agreement recognise that standardised employment practices can be barriers to neurodivergent workers' performance.

The Employer will use any performance management processes as an opportunity to review and improve support for neurodivergent workers, and to identify barriers that can reasonably be removed.

When concerns about a workers' performance are linked to a neurodivergent condition then performance management or capability proceedings will be halted or not initiated until any accepted reasonable adjustments have been made and an appropriate amount of time has passed to allow those adjustments to take effect.

All managers who conduct performance management or capability proceedings will, in the medium to long term, receive training on neurodiversity. The programme of such training (including timescales) will be agreed between the Employer and the Union within twelve months of the signing of this agreement.

The fact that a worker is neurodivergent, or is believed to be neurodivergent, will never be used as a reason for initiating performance management, disciplinary or capability proceedings.

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## **7. Recruitment, progression and promotions**

Neurodivergent workers and applicants will not be discriminated against during recruitment, progression and promotion processes.

Specific provision will be made to encourage neurodivergent job applicants to disclose conditions and request adjustments to recruitment, application, and interview processes.

The Employer will take proactive steps to remove elements from existing recruitment processes that are known to discriminate against neurodivergent applicants – such as unclear or overly prescriptive job descriptions, or psychometric tests that have been based on a majority non-neurodivergent sample.

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## **8. Awareness and training**

Neurodiversity will be incorporated into existing equality and diversity training programmes (both initial and top-up training).

The Employer, in consultation with the Union, will consider delivering or funding training and awareness events specifically on the topic of neurodiversity, with the programme and provider of such training to be agreed by both parties.

As covered in section 6, all managers who conduct performance management or capability proceedings will receive neurodiversity training.

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## 9. Trade union undertakings

The Union will nominate a representative to act as a 'neurodiversity champion' to raise awareness in the workplace and act as a point of contact with the Employer, including for the sharing of guidance and best practice.

The Union will provide guidance to its members on the disclosure of neurodivergent conditions that they have, or are believed to have, to the Employer, which is based on the principle of early disclosure as best practice, unless there are compelling reasons not to do so.

The Union will raise any concerns regarding potentially discriminatory practices or incidents at the earliest reasonable and practicable stage.

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## 10. Agreement coverage

This policy applies to all direct employees, contract and agency workers, and volunteers working for [ ].

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## 11. Legislative compliance

This policy complies with current employment legislation:

The Equality Act 2010 prohibits discrimination against, and the victimisation and harassment of, people who are disabled for the purposes of that Act.

Under the Equality Act, employers also have a duty to implement reasonable adjustments for employees with disabilities.

The Government's statutory guidance states that a disability can consist of a 'developmental [condition], such as autistic spectrum disorders (ASD), dyslexia and dyspraxia.'

### **[\*\* Public sector employers only \*\*]**

Public sector employers also have a duty under Section 149 of the Equality Act to have due regard to the need to eliminate prohibited conduct (including discrimination), advance equality of opportunity and foster good relations for people with a disability.

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## 12. Signatures and commencement

This neurodiversity policy will come into force from the day of its signing.

**[Name**

**Job title**

**Signed and dated on behalf of the Employer]**

**[Name**

**Job title**

**Signed and dated on behalf of the Union]**

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## 13. Appendix – language and definitions

### The meaning of terms used in this policy

#### NEURODIVERSITY

Neurodiversity is the idea that there are natural and normal variations in the way that people think and process information; and that different cognitive profiles can present both strengths and challenges depending on the environment people work in.

#### NEURODIVERGENCE

Someone is neurodivergent if they have a cognitive profile that differs from that of the majority. For example, a person with dyslexia may be said to be neurodivergent.

#### DISABILITY

The term disability is used in this policy in the same sense that it is employed by the Equality Act 2010: a long-term physical or mental impairment that has a substantial adverse effect on a person's ability to carry out normal day-to-day activities.

#### CONDITIONS

The use of this term does not indicate a preference on behalf of either the Employer or the Union for a medical over a social model of disability.



## WORKERS

For the purposes of this guide, the term 'workers' means people who directly carry out work for the Employer in a salaried or voluntary capacity. It is not a technical distinction between employees, workers, and other legal categories of work.

### Examples of neurodivergent conditions

Every neurodivergent person has a unique cognitive profile. Each of the conditions listed below may be described as a spectrum and there will be a high degree of variation between people who share the same diagnostic label. Overlap between different diagnoses is also common. No two people are the same.

The below section is therefore neither a prescriptive nor exhaustive list of conditions or characteristics, and it should be used for initial reference only.

#### ADHD

Attention Deficit and Hyperactivity Disorder (previously referred to as Attention Deficit Disorder or ADD).

People with ADHD may experience problems with focus or be distracted from some tasks. Conversely, people with ADHD may demonstrate a very high degree of focus on other tasks ('hyperfocus') and require different stimulation levels to a typical worker. Workers with ADHD can excel in potentially intensive work environments.

#### AUTISM

Diagnoses that fall under the umbrella of Autism Spectrum Conditions (ASC) include Asperger's Syndrome and Pervasive Developmental Disorder Not Otherwise Specified (PDD – NOS).

Many autistic people can appear highly articulate and are able to work productively in many roles and sectors, but may struggle to understand the complexities of social interaction. Sensory inputs such as noise, heat, light and touch can be an issue for many people on the autism spectrum.

#### DYSLEXIA

Dyslexia is often characterised by problems with reading and writing, although a dyslexic person may encounter other challenges connected to cognitive tasks, such as sequencing, processing of information, working memory, and phonological processing. The NHS states that 'people with dyslexia often have good skills in other areas, such as creative thinking and problem solving.'

## DYSPRAXIA

Also known as Developmental Co-ordination Disorder ('DCD').

Dyspraxic people may encounter problems with fine and/or gross motor activities. This may present challenges for activities that involve handwriting and some manual task. Other common characteristics include atypical responses to sensory inputs, and problems with organisation. The Dyspraxia Foundation says that 'persistence, determination and extremely hard working are all characteristics associated with dyspraxia.'

## DYSCALCULIA

Dyscalculia is a neurological condition that may affect mathematical functions. Although this condition is sometimes described as being comparable to dyslexia, research is at an earlier stage and someone who is dyscalculic may not also be dyslexic.

## DYSGRAPHIA

Dysgraphia involves neurological difficulties with the act of handwriting and potentially other fine motor skills, such as spelling and finger sequencing (which may affect typing).

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## **Thinking differently at work**

This guide was produced with GMB Neurodivergent Activists by the GMB Equality Through Inclusion department and the Industrial Research and Policy team.

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