



Disability Policy

Mariwala Health Initiative

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INTRODUCTION

This document outlines our policy for supporting our employees, affiliated persons, and organizations with disabilities, in line with our social obligations and duty of care. Our goal is to create a disability rights framework for the workplace with examples of practical applications, and establish the kind of language and ethics we have to apply for a comprehensive environment.

This policy comes at a strategic point in time while MHI is embracing a diverse local, national, and international community. We believe that it is essential to protect and promote the rights and dignity of persons with disabilities within our organisation, and have similar expectations from our partner organisations. This Disability Policy has been developed collaboratively by people with lived experience of disability, and for persons with disabilities on our team. The process involved research, participation, and consultation with different stakeholders. We have intentionally used person first language in this policy because it prioritises the individual and their rights as a person.

PURPOSE AND OBJECTIVES

The purpose of this policy is to promote and facilitate our goals of an inclusive and rights-based workplace environment for people with disabilities, as a set of policy directions within our organisation. We are aiming to better address the structural barriers in society that exclude persons with disabilities, for the purpose of their comprehensive integration in our workplace.

In addition, we hope to work with our employees with disabilities to determine support needs and use accessible ways of communication to provide accommodations, as well as creatively monitor and resolve any issues that come up.

It is expected that this policy will lead to a more detailed and prioritized action-based framework that will be developed and implemented based on need. This policy is expected to also enable MHI to plan for changes that may need to be made to the workplace environment, processes, and location so that the team can provide support to people with disabilities.

SCOPE AND REACH

This policy specifically covers all employees in MHI who have a disability, which is typically defined in terms of three elements:

- I. A physical or mental characteristic perceived as an impairment or dysfunction, and
- II. A significant personal or social limitation associated with that characteristic
- III. Can be congenital at birth or acquired at any time

The United Nations Convention on the Rights for Persons with Disabilities offers:

“disability is an evolving concept and disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others” (Preamble; Section E)

In context of India, The Rights of Persons with Disabilities Act, 2016 offers:

The Rights of Persons with Disabilities Act, 2016.

“person with disability’ means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others” (Section 2; Definitions)

Legally, we are bound by the policies of the National Act and the The Rights for Persons with Disability Act, 2016. We also aim to work with the guidelines proposed under the UNCRPD. Beyond those, MHI’s ethical stance recognises a mix of social and human rights models of disabilities. We especially acknowledge the evolving nature of the disability movement and how disabilities function in an ableist and neurotypical world. Chronic pain, chronic illness and other disabilities that are psychosocial, invisible and recurrent are also within our scope as well. Learning from the Equality Act, 2010 of the United Kingdoms, we also cater to the needs of people with progressive conditions like HIV, cancer or multiple sclerosis in this category.

As mentioned in the definitions above, disabilities arise from the interaction between a person’s health condition or impairment and the multitude of influencing factors in their environment. In our work, we hope to mitigate those factors through our best effort. We aim to ensure that our response to supporting employees with disabilities is consistent across our offices and as far as is reasonably practical, our partner organisations.

At MHI, we take action against discrimination based on not only gender, caste, sexuality, class, religion, age, race and disability, and acknowledge the intersectionalities and complexities that often come with these identities.

AFFIRMATIVE HIRING

We are affirmative action employers as we prefer to hire people from marginalised backgrounds. Thus, for job candidates with disabilities, it is our obligation to make reasonable accommodations to enable equal participation in the interview process. For example, accommodations for interviews may include providing access information or an accessible location for a person with a mobility impairment; a sign language interpreter for a person who is deaf; a reader for a person who is blind; and the same goes for accommodations for online interviews. We hope to deliberately target search efforts towards disability groups and prioritise interviewees with distinctive personal experience. Once the offer letter has been sent to a job candidate, we are required to set up a meeting to discuss accommodation and accessibility needs to any individual who has been hired, regardless of whether they have specified their disability or not. We hope to have similar follow-up conversations once a year or as per need with each employee as their accommodation and accessibility needs change.

ADDRESSING BARRIERS AND ACCESSIBILITY

At MHI, we will strive to reduce any barriers and address accessibility on a best effort basis. We realise that our offices may not be completely structurally accessible, however, we believe that listing access information is a large part of facilitating access. Whenever required, we will provide access information about any spaces where our team is working. We will also provide access information on our events and workshop posts for partners, participants or visitors. For all disability and accommodation inquiries, please email contact@mariwalahealthinitiative.org

Listing access information means that with each team member and potential members of MHI, we will provide details about which accommodations have been planned for and especially barriers for which accommodations could not be arranged. At the end of every listed access note, we will provide a designated phone number or email for additional access requests. If you are an existing partner and want to know more, we would encourage you to reach out to your Grants / Programs Manager.

If required, all access arrangements will be worked out along with an accessibility professional. During visits or events, we will have a specific point person who is in charge of facilitating access and answering questions about the space and the access resources available. An example of access information we would provide would state “there are 3 steps of 2 inch each into the conference space.” Whenever possible, we will supply measurements about the dimensions of entrances, pathways, etc.

Another important part of facilitating access will be about welcoming and maintaining open communication with our employees and partners, visitors, and consultants. Our projects and programs will not be unilaterally developed, they will be developed along with our team and organisation’s needs in mind.

REASONABLE ACCOMMODATIONS

The UNCRPD defines the principle of "reasonable accommodation" as:

"necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms" (Article 2)

MHI will handle all requests for reasonable accommodation with best effort. There will be a discussion to determine how an employee's work can temporarily be managed while MHI is evaluating a request for accommodation. For example, we might require an employee to perform only those functions of the job for which accommodation is not needed while processing the request. Importance will be given to engage in the interactive process and involve all parties – the supervisor, the employee, and the person within the organisation whose job it is to arrange accommodations - in order to achieve the best possible outcome for all.

SPECIAL BENEFITS AND FACILITIES

Besides all the benefits that MHI already offers to all employees, our organisation may choose to offer disability benefits to employees with disabilities depending on the situation. These could include:

- enhanced number of leave
- special aids and appliances for facilitating office work
- flexible hours or work from home
- transport allowance
- better assistive devices or aids for work related tasks
- space and allowance for a support person during work hours
- proper complaint or grievance redressal mechanism for access issues
- extra allowance for employees with disabilities who have young children or dependants to take care of

LEAVE AND TIME-OFF SUPPORT

MHI has attendance requirements that will be outlined when any new employee is hired. Besides annual leaves, which are mentioned in the HR policy of MHI, we recognize that employees with disabilities may need extra time off and therefore provide those within our special benefits and facilities depending on the situation. In some cases, we also offer opportunities to use advance or unpaid leave, as well as leave donated by coworkers.

If an employee with a disability needs leave or a modified schedule beyond that provided for under our benefits program, we might grant the request as a reasonable accommodation in certain cases if there is no undue hardship on other employees or work that may impact partners.

Employees who are out of work because of a condition related to disability, accident or illness, we can provide a short-term leave plan which will be designed to provide income to the employee with disability who is unable to work after an initial waiting period to inform the relevant supervisor (generally, three days). The short-term leave plan would be expressed in terms of the maximum number of weeks that the plan will pay (the standard is 30 to 60 days). This leave plan would typically replace about 50 percent of an employee's income.

Generally, an employee will be required to satisfy the 2 days leave credited every month before disability leave will begin being paid. During the waiting period, employees can use sick leave, vacation, or personal leave. If an employee is collecting disability leave and the duration of the disability exceeded the limits of the leave plan, the employee would then begin to renegotiate employment terms. If no agreement happens then changes in employment status will be pursued including a resignation.

FLEXIBLE WORK REQUESTS AND EMPLOYMENT TRANSITION

MHI's employees with disabilities can negotiate ways to make the workplace more flexible beyond the facilities and support already outlined above. Examples include changing what hours are worked and where work is performed. These may impact the compensation package if changes are made beyond a temporary period of 2 months.

There are 2 formal ways we can make the workplace more flexible:

1. flexible working arrangements - employees with disabilities have the right to request flexible working arrangements
2. individual flexibility arrangements - employers and employees with disabilities can negotiate to change how certain work expectations or agreements apply to them.

Flexible working arrangements could include:

- changed starting and finishing times
- part-time work or job sharing
- working more hours over fewer days
- working additional hours to make up for time taken off, or
- changing the location of work or the need to travel to work (for example, working from home), unless the role of the employee requires travelling as per the offer letter, in which case we may negotiate a change in role.

Employees with disabilities must send in a written request which would clearly outline the change sought and the reasons for the change.

There are other several kinds of flexible arrangements that can be discussed based on individual situations. The key will be to find the arrangement that best suits both MHI and the employee with disabilities.

Our organisation can refuse a request on reasonable grounds that include, but are not limited to:

- the new working arrangements requested by the employee would be too costly or would take too long to work out
- there is no capacity to change the working arrangements of other team members to accommodate the new working arrangements requested by the employee
- it would be impractical to change the working arrangements of other team members, or would require recruitment of a new employee(s), to accommodate the new working arrangements requested by the employee
- the new working arrangements requested by the employee would likely result in significant loss of efficiency or productivity for our overall organisation and team
- the new working arrangements requested by the employee would be likely to have a significant negative impact on service that our organisation offers to our partners or the public.

MHI will reserve the right to discuss any arrangements that require a transition in the form of change in employment status or renegotiation of salary.

IMPLEMENTATION, COMMUNICATION AND ACCOUNTABILITY

MHI will do our best to expedite the implementation process for accessibility or accommodation requests whenever the safety or a certain assignment or duty of an employee with a disability is at stake. Alternative arrangements can be discussed while the implementation process is ongoing. For example, if an employee on a wheelchair faces barriers at entering the workplace and their request for a support person or temporary ramp will require time and re-budgeting on the part of MHI, then alternative working space or work from home arrangement can be made while the request is processing.

Following are some actions that are not required by MHI as an employer (unless specified otherwise in a particular situation):

- Lowering production or performance standards
- Excusing violations of conduct rules that are job-related and consistent with work necessity
- Removing an essential function
- Monitoring an employee's use of medication
- Providing personal use items
- Changing someone's supervisor (though changing supervisory methods can be requested)
- Actions that would result in undue hardship on our organisation or team member (i.e. significant difficulty or expense)

Every employee at MHI is required proper accountability of their work related duties and performance. When an employee with a disability does not give notice of the need for accommodation until after a performance problem has occurred or the employee continues to underperform after several discussions, then reasonable accommodation or accessibility does not require that MHI supervisors:

- * Tolerate or excuse the poor performance
- * Raise a performance rating
- * Give an evaluation that does not reflect the employee's actual performance

Accountability in ensuring performance is as per the offer letter, unless renegotiated, is on the employee. Consequences for lack of communication and accountability will be that MHI will require the employee with disabilities to either put in a request for flexible work or there will be a discussion about change in employment status.

MONITORING AND EVALUATION

MHI will establish job-related monitoring and assessment, i.e., the specific tasks or assignments that an employee must perform, and methods to evaluate performance along with the employee with disabilities. Following are the mechanisms included:

- An employee with a disability must meet the renegotiated and/or agreed upon work output.
- Lowering or changing a production standard because an employee cannot meet it due to a disability is not required as a reasonable accommodation.
- Evaluation of job performance of an employee with a disability would be the same way that evaluation is done for any other employee's performance.
- Quality of work must be maintained and communicated as required by the employee.

COMPLAINT, GRIEVANCE AND RESOLUTION PROCESS

Informal complaints:

If an employee with a disability wants to make a complaint about being treated badly, a change in employment status or about a request that wasn't fulfilled by MHI as an employer, our first suggestion is to ask the individual to speak to a manager or a senior member. This can be done in person or over the phone. They could also send their supervisor a short email explaining what happened and why you are upset. This could include their suggestions for how the situation could have been handled better and what may need to change. This can be a good approach in some situations, for example, if another employee said something negative about the disability of an employee. A solution could be to have a conversation with all the team members involved with a discussion about an apology and next steps that the first employee takes to educate themselves.

Formal complaints:

In cases where making an informal complaint does not work, or is not suitable, an employee with disabilities can make a formal complaint to the Chief Development Officer or any of the Advisory Board members. Formal complaints can be made in person, over the phone, or via a letter or email. In case the employee feels distress or any other issues in expressing their concerns freely, we will accept third party involvement in the form of a mediator, representative, interpreter or supporter whose presence might help the employee with communication.

What to include in a complaint:

Although we would prefer taking complaints and reaching a resolution in person, over phone or email, MHI can provide complaint or grievance forms that an employee with disabilities can fill out to make a complaint.

When filing a complaint or grievance, employees should make sure to include all of the following information:

- Preferred contact details - Providing details about how they prefer to be contacted along with their or their support person's name, phone number or email.
- Details of characteristics – Providing information about any characteristics that are relevant to the complaint. This could include your disability, gender, beliefs etc.
- What happened – Details of the events. Explaining who did what, where they did it and when. Giving a clear description of how they were treated, harm caused and feelings that arose.
- What happens next - Details of what they hope to achieve from their complaint. Would they like a policy change, an apology or something else? Also putting down a list of preferred outcomes.

MHI will consider all informal and formal complaints with full regard of the situation, the person harmed and any others who were involved. The person with disabilities can choose to communicate about complaints and how to engage in resolution format in their preferred method.

If employees are faced with an ethical conflict or there is a risk or threat to their duties or performance at the workplace, then, there are two possible approaches that MHI could take:

- A rules-based approach would be to identify each possible ethical problem, risk or threat that could arise in the work of an employee and specify what the employee must do in each situation.
- A principles-based approach would be to specify the principles that should be applied when trying to resolve an ethical problem, risk or threat, offer some general guidelines, but leave it to the judgment of the employee to apply the principles sensibly in each particular situation.

In the case where a resolution cannot be found or further conflicts and disagreements occur that negatively impact other team members or the overall organisation, then MHI will take necessary action for mitigation. For example, suggesting time off or distancing the two employees between whom conflict might have occurred etc. MHI reserves the right to decide or not decide upon any resolution process or changes.

ILLUSTRATION OF SITUATION AND EXAMPLES

Situation 1: Reasonable Accommodation

In many instances, an essential function can be performed in different ways (including with a reasonable accommodation). An employee who must use an alternative method of performance because of a disability must be evaluated accordingly.

For example: One of Neha's essential functions is providing training. Because she is deaf and, as a result, has difficulty speaking, Neha uses a sign language interpreter to voice for her. Generally, Neha's supervisor evaluates her employees on the use of their voices – whether they speak with a monotone or use their voices to show interest and enthusiasm. Neha's presentation cannot be measured in this way. However, there are alternative ways to measure how she conveys her message, including body language, facial expression, and the words she uses.

Situation 2: Evaluation and Monitoring

Evaluation of performance for a specific task will not change if there is an accommodation request after the task is assigned or in the duration of the task.

For example: Garima does not disclose her chronic fatigue syndrome, even when she begins having performance problems that she believes are disability-related. MHI supervisors counsel her about the performance problems, but they persist. The supervisor warns that if her work does not show improvement within the next month, she will receive a written warning. At this point, Garima discloses her disability and asks for reasonable accommodation. The supervisor immediately begins the interactive process, discussing the request and how the proposed accommodation will help improve Garima's performance. The supervisor does not need to rescind the oral warning or requirement that Garima's performance must improve. However, delaying the one-month period to evaluate Garima's performance pending a decision on her request for reasonable accommodation will enable the supervisor to assess Garima's performance accurately.

Situation 3: Flexible Work and Sick Leaves

Regarding intermittent absences or sick leaves that affects overall job performance, a flexible work schedule request will be necessary by the employee.

For example: Recently, Rekha's illness has worsened and her doctor has been unable to control her increasing breathing difficulties. As a result of these difficulties, she has taken 20 days of leave during the past two months. The severe symptoms generally occur at night, thus requiring her to call in sick early the next morning. The lack of notice puts a strain on the team and organisation because they cannot function well without all employees present, and there is no time or scope to plan for a replacement for Rekha's work within the team. We ask for medical documentation from Rekha about her absences and a doctor's assessment of whether she will continue to have a frequent need for intermittent leave. Alternatively, if for

any reason, a doctor's assessment cannot be obtained, Rekha will be required to present a written statement of an evaluation of her own. If various treatments have not controlled the asthmatic symptoms, there is no way to predict when the more serious symptoms will suddenly flare up, and Rekha does not expect any change in this situation for the foreseeable future. Given Rekha's job duties and the consequences of being unable to plan for her absences, we will discuss what benefits will be put in place for Rekha to continue her employment efficiently and as originally expected. Most likely, a flexible work from home arrangement will be settled on. However, if performance is still lagging behind within two weeks of the flexible work arrangement, then MHI can decide upon whether Rekha is eligible for a short term disability leave plan or whether there will be a change in employment status.

REFERENCES

- Rights for Persons with Disabilities Act, 2016
- United Nations Convention on Rights for Persons with Disabilities, 2006
- Special Rapporteur on the Rights of Persons with Disabilities
- National Policy for Persons with Disabilities, 2006
- Mental Health Care Act 2017
- Disabling Barriers Enabling Environment Edited by Swain, French and Barnes
- Equality Act 2020, United Kingdoms