

Advice for Employers on the Equality Act 2010

Disability discrimination

The Equality Act 2010 makes it unlawful to discriminate against employees because of a mental or physical disability. View or download the new ACAS guide and useful FACTsheets on their website:

<https://www.acas.org.uk/index.aspx?articleid=1859>

Key disability discrimination points:

- Under the Equality Act 2010 a person is disabled if they have a physical or mental impairment which has a substantially adverse and long-term effect on their ability to carry out normal day-to-day activities. In the workplace

such activities are taken to include things like using a telephone or computer, interacting with colleagues, following instructions, driving and carrying everyday objects.

- The Equality Act 2010 provides disabled people with protection from discrimination in a range of areas, including employment.

We will look at two main types of disability discrimination out of the four areas outlined in the Equality Act.

Direct discrimination is when someone is treated differently and not as well as other people because of their disability. For example, an employer does not employ a disabled person just because it does not want disabled people in its workforce.

There are three different kinds of treating someone 'less favourably' because of:

- their own disability (ordinary direct discrimination)
- a perceived disability (direct discrimination by perception)
- their association with someone who is disabled (direct discrimination by association).

Indirect discrimination can occur where a workplace rule, practice or procedure is applied to all employees, but disadvantages those who are disabled. A disabled employee or job applicant claiming indirect discrimination must show how they have been personally disadvantaged, as well as how the discrimination has or would disadvantage other disabled employees or job candidates.

In some limited circumstances, indirect discrimination may be justified if it is necessary for the business to work. For example, an employer may reject an applicant with a severe back

problem where heavy manual lifting is an essential part of the job.

Failure to make reasonable adjustments

An employer failing to make reasonable adjustments for a disabled job applicant or worker is one of the most common types of disability discrimination. If a worker or job applicant feels they have been discriminated against, they can make a claim of disability discrimination to an employment tribunal. However, it is best they talk to the employer first to try to resolve the issue informally. Having a discussion can often help the employer to understand the issues and concerns, and help to resolve the matter quickly and before it escalates further.

Contact us for more advice or if you need to provide communication support so that

you can have these important conversations.

What is meant by the duty to make reasonable adjustments?

The **Equality Act 2010** says changes or adjustments should be made to ensure disabled people can access the following things:

- education
- employment
- housing
- goods and services like shops, banks, cinemas, hospitals, council offices, leisure centres
- associations and private clubs like the Scouts and Guides, private golf clubs and working men clubs.

For you as the employer what is meant by reasonable adjustments?

Adjustments only have to be made if it is **reasonable** to do so. What is a reasonable adjustment depends on things like:

- the disability and the needs
- how practicable the changes are
- if the change will overcome the disadvantage your disabled employees are experiencing
- the size of the organisation
- how much money and resources you have available
- the cost of making the changes
- if any changes have already been made

What can an you as an employer do?

There are three different things people or organisations may have to do to make it easier for

disabled employees to access or do something.

Change the way things are done

Some people or organisations may have a certain way of doing things which makes it more difficult for disabled employees to or do something. This could be a formal or informal policy, a rule or a practice. It could also be a one-off decision.

The Equality Act calls this a **provision**, **criterion** or **practice**.

As an organisation you should change these things if they are a barrier for your disabled employees, unless it's unreasonable to do so.

Provide extra aids or services

Sometimes your disabled employee may need particular aids or equipment to help them access or do something. Or they may need additional services. The Equality Act calls this **auxiliary aids** and **services**.

Here are examples of auxiliary aids and services which could be provided to help them:

- a portable induction loop for people with hearing aids
- BSL interpreters
- providing information in alternative formats, such as Braille or audio CD's
- extra staff assistance.

Example: *A solicitor offers to come and meet a disabled person at their home and that person has severe agoraphobia and find it difficult to leave their home. Normally, a solicitor only makes appointments at the office. The solicitor could provide this person with an extra service under their duty to provide reasonable adjustments.*

When do employers have to make these adjustments?

The Equality Act says there is a duty to make reasonable adjustments if the disabled

person is placed at a **substantial disadvantage** because of their disability compared with non-disabled people or people who don't share the same disability. Substantial means more than minor or trivial.

Example: *A deaf person is being interviewed at police station. Their first language is BSL and needs an interpreter to communicate with the police officer as he doesn't know BSL. Their disability places them at a substantial disadvantage compared to someone who is not deaf and who can communicate in English. The police officer should therefore use a BSL interpreter when interviewing them.*

What happens if employers do not carry out their duty to make reasonable adjustments?

If employers does not cooperate with their duty to make reasonable adjustments, the Equality Act says it is unlawful discrimination. A disabled person may ask the person or organisation to make the necessary changes. If they refuse, they can make a discrimination claim under the Equality Act.

For further advice or help our contact details are at the end of this FACTsheet, or you can contact us through our website:

www.ideaflife.weebly.com

iDeaf - London Deaf Information Service bringing a change to the lives of deaf and hard of hearing people.

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