

Briefing

Adjustments in employment

Abridged content for sample purposes

This briefing is not an authoritative statement of the law. While we have made every effort to ensure that the information we have provided is correct, Business Disability Forum cannot accept any responsibility or liability.

Contents

Introduction	4
Promoting inclusion	5
What are reasonable adjustments?	7
Planning ahead	9
Examples of adjustments	12
Non-visible disabilities and confidentiality	24
Joint problem solving	27
Regulatory framework	30
Further information	33
Business Disability Forum products and services	35
Further sources of reference	40
Contact us	48

Introduction

This is one of a series of briefings, published by Business Disability Forum, which provide practical guidance for employers on specific topics relating to the employment of disabled people.

It will be particularly useful for personnel or human resources managers, occupational health advisers, line managers and employment agencies.

This briefing provides general guidance only and should not be treated as a complete and/or authoritative statement on the law relating to reasonable adjustments.

Under equality legislation, the duty to make reasonable adjustments is a requirement unique to disability, and is one of the key features which distinguishes disability from other legally protected characteristics. This briefing provides practical guidance to help the reader understand what the term 'reasonable adjustments' means and the kind of adjustments employers may have to make.

This guidance is intended to help employers to meet their legal obligations and to ensure that their disabled employees or prospective employees are treated fairly and able to fulfil their true potential in the workplace, bringing benefits to the business as a whole.

It cannot precisely define 'reasonable adjustment' because that will depend on individual circumstances. Interpretation of the law will also depend on the rulings of employment tribunals and the courts, and case law will continue to develop over time.

Promoting inclusion

Many organisations have equal opportunities policies stating that the organisation treats all employees fairly, regardless of age, ethnicity, gender, disability, sexual orientation, religion or belief.

However, forward-thinking employers recognise that true equality of opportunity cannot be guaranteed by a 'one-size fits all' approach to policies and practices. The real differences in employees' cultural and material circumstances will mean some employees are likely to be placed at a greater disadvantage by certain workplace arrangements than others. Consequently, in order to treat an employee fairly it may be necessary to treat them differently.

The law recognises that the disadvantages many disabled people face in their day-to-day lives are less a product of their particular impairment, but are instead often the result of environmental or attitudinal barriers such as the structure of a building, or particular procedures and practices that have been developed without taking into account their requirements. This is a 'social model' approach which recognises that the barriers erected by society are often far more disabling than an individual's impairment.

For example, a wheelchair user is disabled not because of his mobility impairment but because there is no lift to take him to his appointment on the third floor of the building.

This is why the law stipulates that employers have a legal duty to make reasonable adjustments. Making adjustments is a way of creating a level playing field for disabled people, enabling them to work on equal terms and have access to the same opportunities for employment and career development as non-disabled people.

Many disabled people need few if any adjustments. The most significant adjustment will often be to move away from preconceived ideas about disabled people and to shift the focus to the individual's skills and abilities.

Adjustments in employment

Responding to diversity and promoting inclusion is good for business. The principle of making alterations and adjustments to standard policies and procedures and to the built environment can assist an employer to be more responsive to the diverse requirements of all employees promoting a more inclusive workplace.

For example, an employee with young children may welcome the opportunity to work flexible hours (and has the right to request this) while another employee might welcome a quiet and private space in the workplace for prayer. Developing inclusive policies and practices will enable organisations to recruit and retain a diverse range of experience and improve reputation with customers, employees and key stakeholder groups.

Duty to make reasonable adjustments

The duty to make reasonable adjustments applies where any physical feature of the employer's premises, or any provision, criteria or practice made by or on behalf of the employer, causes a substantial disadvantage to a disabled person compared to a non-disabled person. Employers also have a duty to provide auxiliary aids where this would reduce or remove a substantial disadvantage that a disabled person faces, including providing information in accessible formats, e.g. Easy read or large print if necessary.

This duty is owed to prospective employees, applicants, and permanent and temporary members of staff. The duty to make reasonable adjustments also applies to other disabled people engaged in an occupation who are not employees, for example:

- Contract workers.
- People undertaking practical work experience for a limited period for the purposes of vocational training, e.g. apprentices, work experience students or internees.
- Police officers.
- Office-holders, e.g. company directors, judges, chairmen or members of non-departmental public bodies.
- Partners in firms.
- Barristers, barristers' clerks and advocates.

What are reasonable adjustments?

Employers are required by law to make adjustments to the physical features of their premises or to any provisions, criteria or practice made by, or on behalf of, the employer.

What are 'physical features'?

The law says that the following are to be treated as physical features:

- Any feature arising from the design or construction of a building on the premises occupied by the employer, e.g. steps, stairways, corridors and surfaces.
- Any feature on the premises or any approach to, exit from or access to, such a building, e.g. kerbs, paving, parking areas, building entrances and exits (including emergency escape routes), gates and internal and external doors.
- Any fixtures, fittings, furnishings, furniture, equipment or materials in or on the premises, e.g. toilet and washing facilities, lifts and escalators, floor coverings, signs, furniture, machinery and equipment, lighting and ventilation and any other temporary or movable items.
- Any other physical element or quality of any land comprised in the premises occupied by the employer, e.g. the distance someone has to travel to get from one place to another.

All these features are covered, whether temporary or permanent.

What are provisions, criteria and practices?

The definition of 'provisions, criteria and practices' is extremely broad and covers all aspects of employment.

The duty to make adjustments applies to all aspects of employment, including:

- Recruitment and selection.
- Training.
- Work experience placements or internships.
- The provision of contract or temporary work.
- Promotion.
- Career development.
- Transfer.
- Retention (including sickness absence policies).

The duty may also apply after employment has ended, for example:

- Benefits such as an occupational pension or group insurance scheme.
- References.

Planning ahead

The duty to make reasonable adjustments only arises when an employer knows, or could reasonably be expected to know, that a particular disabled person is at a substantial disadvantage.

This means that unlike service providers, employers do not have to make adjustments in anticipation of disabled people that they may employ in the future.

However, it is more cost effective for employers to plan ahead when it comes to ensuring that their premises and their provisions, criteria and practices are accessible to disabled people. This is particularly advisable as it is more than likely that they will employ a disabled person in the future given the incidence of disability in the population generally.

Access audits

It is good practice for employers to have access audits carried out to ensure their premises are accessible, and to identify any improvements that can be made to the built environment. Considering the needs of a range of disabled people when planning an addition or change to the physical features of your building is likely to make it easier to implement adjustments for individuals as and when the need arises.

Access audits should be carried out by suitably qualified people such as those listed in the National Register of Access Consultants, held by the Centre for Accessible Environments (CAE) (see contact details at the end of guide).

Websites and intranet sites should also be checked for accessibility, this check should ideally include testing by people with a range of impairments. If disabled people are involved in the development of your online services from the design stage, your sites are more likely to be accessible to and usable by a wider range of users.

Policies and procedures

Employers should review all their policies bearing in mind the need to make reasonable adjustments. As well as doing this, it is advisable for employers to have a specific policy to prevent discrimination against disabled people: this should include information on reasonable adjustments such as:

- Examples of adjustments.
- A procedure for requesting and making adjustments and reviewing them for effectiveness.
- Clarity around the roles and responsibilities of key players including clear lines of responsibility.
- Timescales.
- Information about confidentiality.

In order to prevent inadvertent discrimination against disabled people, the need to make reasonable adjustments should be embedded into all policies and procedures.

Content has been removed for sample purposes. Pages 12 to 47 are available in the full booklet.



Contact us

Business Disability Forum
Nutmeg House
60 Gainsford Street
London
SE1 2NY

Tel: +44-(0)20-7403-3020

Fax: +44-(0)20-7403-0404

Email: enquiries@businessdisabilityforum.org.uk

Web: businessdisabilityforum.org.uk

© 2018 This publication and the information contained therein are subject to copyright and remain the property of Business Disability Forum. They are for reference only and must not be reproduced, copied or distributed without prior permission.

Business Disability Forum is committed to ensuring that all its products and services are as accessible as possible to everyone. If you wish to discuss anything with regard to accessibility, please contact us.

Company limited by guarantee with charitable objects.

Registered Charity No: 1018463.

Registered in England No: 2603700.