Briefing

Disability management and the medical adviser

Business Disability Forum

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Introduction

Disability management and the medical adviser

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 will help employers use medical advice to best effect when managing disability in the workplace.

All organisations, irrespective of size, will at some point require the expert advice that medical officers can provide to help them respond effectively to employee requirements.

This briefing will refer to the support that medical advisers can offer to help employers to effectively manage disability in the workplace.

Who are medical advisers?

For the purposes of this briefing, the term 'medical adviser' means a medical expert from whom an opinion is sought to help assess risk, make recommendations for reasonable adjustments and respond to individual employee problems. Such advice can be provided by a number of sources including, occupational health advisers (internal and external), general practitioners (GPs), consultants and specialists, ergonomists etc.

An organisation which responds appropriately to medical advice will benefit from:

- A workforce able to work to their full potential.
- Reduced sickness absence and staff turnover.
- Increased efficiency and productivity.
- Reduced risk of litigation and loss of reputation.
- Increased staff morale.

When to seek medical advice

Employment decisions are a managerial not a medical responsibility. A medical adviser's role is to assess risks, to make recommendations and to present the findings clearly. The employer must then decide on the acceptability of those recommendations in accordance with the Equality Act 2010, health and safety legislation and other legal obligations.

Just because an employee has told an employer about a disability, has had time away from work, or the need for reasonable adjustments has been identified, does not automatically mean that medical advice will be needed. Often conversations between a manager and the individual can identify reasons for absence or reasonable adjustments that when implemented will ensure the individual is able to work safely and to the best of their ability.

A disabled person may know exactly the adjustments they need. A question such as: "Is there anything that we can do that would make it easier to do the job?" is a good place to start.

Circumstances when you may want to call an expert:

- Suitable adjustments are difficult to identify or hard to provide.
- A person is newly disabled or has a fluctuating/progressive condition, and is not sure about the impact this may have and what would help them to do the job.
- You need to establish whether an underlying medical condition is the cause of workplace problems.
- The return to work options for an employee who is absent need to be assessed.
- A medical opinion is required to ensure a safe and healthy work environment.

Whether or not you use a medical adviser, you must remember that you, as the employer, are responsible for making the necessary reasonable adjustments. What you do with medical advice is as important as the quality of that advice.

Employers must not accept medical advice at face value.

Legal case study – Sandy v Hampshire Constabulary

Mr Sandy had a back problem and partial hearing loss. While working for a year in a temporary post as a police station inquiry officer, he had five days absence, including four days for an ear operation.

Mr Sandy applied for an equivalent post with Hampshire Constabulary, on a permanent basis. The force medical officer said Mr Sandy was unfit for this post because his back injury would give rise to an unacceptable level of sickness. On this basis Hampshire Constabulary withdrew a conditional offer of employment.

The medical officer had not examined Mr Sandy, nor obtained his attendance record. Sight of the record did lead to a revised opinion, but only after an alternative candidate had been appointed.

Mr Sandy challenged the decision but Hampshire Constabulary sought to defend it on the basis that the force had acted on medical advice, in good faith, and that the medical adviser's decision was justified because, although mistaken, it was based on genuine belief.

The tribunal found the decision arbitrary and speculative. While the personnel officer was right

to take careful account of the medical officer's report, the employment tribunal said it was also incumbent upon him to apply his own analysis and judgement. The personnel officer should have reflected that the applicant had successfully fulfilled his duties in the temporary post. Management was responsible for the decision, and had breached the law.

Although this case was decided under the Disability Discrimination Act 1995 (DDA) the principles are still relevant and a similar decision is likely to be reached by the tribunals under the Equality Act 2010.

How to use medical advice – GPs and occupational health

General practitioners

GP's are able to:

- Provide a 'Statement of fitness to work'.
- Identify a medical condition which is causing difficulties at work.
- Refer people for specialist advice/treatment.
- Describe the effects of any medication/ treatment.
- Offer limited advice about potential adjustments.

Historically, doctors tend to:

- Underestimate the skills and capacity of disabled people.
- Underestimate what can be achieved through adjustments at work.
- Overestimate the risks for the employer and the disabled person, regarded as a 'patient'.
- Have views based on someone's medical history and make general assumptions about an impairment, rather than assess the impact of a particular impairment on the particular person in the particular job and in the light of all the circumstances.

Remember, the GP's primary duty is to their patient and their actions are governed by this and medical ethics. Therefore GPs are not always able to be as objective as an employer would like.

When commissioning a GP as an adviser, consider offering to pay locum expenses to ensure the GP has the necessary time. It could make all the difference to the quality of the advice.

Statement of Fitness for Work or 'Fit notes'

'Statements of Fitness for Work' or 'fit notes' were introduced in April 2010 to replace sick notes issued by doctors.

The 'fit note' is intended to benefit employees and employers by helping people back to work as soon as possible, through the provision of more information about the person's condition and what they need in order to return to work. It is essential that line managers who receive these 'fit notes' know what to do, including how to contact a team member who is off sick, and how to implement adjustments needed to enable them to return to work.

A note of caution for employers

Employers should note that this guidance assumes that the employee being signed off does not have a disability, and so talks in terms of 'support' or 'workplace adaptations' that the employee might need to enable them to return to work. Employers are reminded that the 'fit note' does

not affect their obligations under the Equality Act 2010 and you should be aware that the recommended 'support' or 'workplace adaptations' could also be adjustments in law.

As 'fit notes' will only be provided to employees who are off sick for more than seven days, employers would be well advised to treat anyone with such a note as though they have a disability and consider the need for reasonable adjustments in every case. A doctor cannot tell you if someone meets the definition of disability in the Equality Act 2010, as it is a legal and not a medical definition. The legal definition of disability is also extremely wide and covers conditions that you and indeed, your employee and their doctor might not consider to be a disability, e.g. muscular skeletal problems, heart disease, diabetes, asthma, migraines and depression and anxiety.

The 'fit note' allows a doctor to tick boxes recommending the following adjustments (although they are called 'support' not adjustments'):

- A phased return to work.
- Altered hours.
- Amended duties.
- Workplace adaptations.
- Space for further comments/other adjustments.

Doctors only have a short time in which to see their patient and will only know what the patient tells them about the working environment and practices. The doctor cannot know what is possible or reasonable in your organisation. It is up to employers to train managers who receive the 'fit note' to be proactive in discussing with the employee how their condition affects them at work and to think about reasonable adjustments that would enable them to return to work to do their job or be redeployed to another suitable job. Managers need to know where to go for help in making such adjustments and in deciding on what is reasonable.

For more information on reasonable adjustments see the 'reasonable adjustments – line manager guide' and the 'adjustments in employment' briefing.

Frequently asked questions

Is the Statement of Fitness to Work or 'fit note' binding on the employer?

No. The purpose of the fit note is to provide employers with more information than the current 'sick note' and to facilitate a conversation with the employee about what they can and cannot do. As an employer it is for you to decide what to do with the information provided by the doctor, e.g. seek further advice from an occupational health adviser, make the suggested or alternative adjustments or decide that it is not reasonably possible for the employee to return to work yet, e.g. there may be industry standards or regulations that the doctor does not understand that means the person cannot work. In this case you should explain your reasons to the employee and treat the Statement as if the doctor had advised that they were 'not fit for work'. The employee does not need to go back to their doctor for a new Statement or 'sick note' to confirm this.

Will we still be covered by our Employers' Liability Compulsory Insurance (ELCI)?

Your liability insurance should not prevent employees who 'may be fit for work' from returning or remaining at work. Employees do not need to be 100% fit in order to return to work. You do, however, need to carry out risk assessments as usual to ensure that it is safe for the person to be at work and to provide a safe working environment, which is often done by making reasonable adjustments. If you have any concerns you should contact your insurer.

How long do any amended duties or workplace adaptations/ adjustments have to last for?

On the statement the doctor will state the period of time their advice is for. When agreeing a return to work plan you should specify when any adaptations or adjustments are to be reviewed. In some cases the changes will be temporary, e.g. to accommodate someone who has broken a leg. In other cases the person's condition may be long term or permanent in which case they might need long-term adjustments, but these should be reviewed regularly to ensure that they are working well.

What should we do if an employee wants to return to work before the end of a 'not fit for work' statement?

Sometimes an employee will be able to return to work before the doctor has said that they will be fit. This could be because they have recovered faster than expected or because the doctor didn't know what the employer could do to enable the individual to return to work sooner. In this case you do not have to wait for the end of the statement period and the person can return to work if you both agree that they can work.

What if the employee disagrees with the doctor's assessment that they are fit to return to work

If you believe from the advice from the doctor and your knowledge of the workplace and the possible adjustments that the employee could return to work, but they disagree, the first step is always to discuss the issue with the employee. You may need to arrange for transport for them to attend a meeting or go to see them at home. During your discussions you may find that there is an aspect of their condition or their workplace that hasn't been considered, which means that they cannot return to work. In other cases it may be necessary to refer the employee to an occupational health adviser in order to find out whether the person can return with adjustments.

Occupational health

An occupational health service can provide the following services and it will be for you to decide which of these meet the demands of your organisation:

- Medical assessments after a candidate has been offered a job (only to be used if appropriate for the role).
- Health promotion and monitoring.
- Preventative initiatives (training programmes, online advice etc).
- Risk assessments.
- Identifying reasonable adjustments and assessing them in operation.
- Employee support.
- Advice on sickness absence management.
- Explanations about the impact of a medical condition or medication on the ability to do the job.
- Treatment (usually for only minor problems).
- Occupational rehabilitation.
- Liaising with the employee's own GP, physiotherapist, occupational therapist or consultant when specialist information is required.
- Advice about the suitability of medical retirement.

Before deciding what you want from either an internal or external occupational health provider it is vital that you establish what your business requirements are and how an occupational health service can help you to achieve these.

The most effective occupational health adviser will have a thorough knowledge of your organisation's objectives and the value that is placed on being a responsive and flexible employer.

Once you have decided on the role of your occupational health service it is very important that this is communicated to all staff and that the entire workforce is aware of their impartial positioning in the organisation.

Qualifications to look for, usually held by full-time specialists, include: Associate, the Diploma of Occupational Medicine (DOccMed), Member or Fellow of the Faculty of Occupational Medicine of the Royal College of Physicians (AFOM, MFOM and FFOM). An occupational health adviser is usually a nurse (RGN, BSc/ BA/DOHN/OHND). A large company may have its own occupational health unit, or engage an occupational health specialist on a retainer basis.

There are by no means enough occupational health specialists to meet demand, but a growing number of GPs have the Diploma of Occupational Medicine (DOccMed) which constitutes a very basic training in occupational health.

Ensure that whoever is providing your occupational health advice has the necessary expertise and has a thorough understanding of the Equality Act 2010 and other regulations.

It is vital to have systems in place whereby the occupational health practitioner can communicate to you the need to make reasonable adjustments for an employee where necessary.

Remember, an employee may not consent to an occupational health adviser passing on a diagnosis or information about a disability and yet it is possible to discriminate against a disabled employee even if you did not know the nature of their disability. It is therefore essential that your occupational health adviser understands that their primary responsibility is to provide useful information to you on how to make reasonable adjustments. Once these are recommended they should be implemented irrespective of the missing diagnosis.

Pre-employment medical questions

The Equality Act 2010 makes it unlawful for employers to ask applicants general questions about their health, medical history or disability prior to making an offer of employment.

Employers cannot ask applicants for general information about their health or a disability including mental health problems: for example, in a standardised medical questionnaire that asks questions about past and current illnesses, injuries, treatment or medication.

Employers who ask questions about past sickness absence on application forms or in references from previous employers requested prior to a job offer may also be acting unlawfully as this could be interpreted as asking questions about health or disability.

What is still lawful?

Employers can ask applicants if they need any reasonable adjustments for the application process or interview.

Employers can ask applicants how they will carry out any intrinsic elements of the job and if there are any limitations on them carrying out such duties. For example, employers can ask applicants for a job as a driver if there are any health restrictions on their ability to drive.

Employers can ask successful candidates health related questions so that any necessary reasonable adjustments can be made.

Employers can ask questions about disability for equal opportunities monitoring purposes and in order to take positive action, for example, the two ticks symbol under which interviews are guaranteed to disabled applicants who meet the essential criteria for a post.

Instead of asking pre-employment medical questions, employers should:

1. Identify whether there are any roles that require certain standards of physical fitness or have health requirements for health and safety reasons or in order to comply with other regulations, e.g. in order to drive a public service vehicle.

2. Ensure that job descriptions for these roles clearly state the physical requirements of the role: e.g. some lifting of patients required for which training will be provided. For these roles, all candidates should be advised in advance that they will need to undergo a medical assessment if they are successful at interview and only candidates to whom job offers are made should have medical assessments. Employers should, however, beware of general medical questionnaires that applicants are asked to complete at this stagetoo. An assessment should be conducted by an occupational health adviser who asks questions that relate specifically to the job the person has been offered. Job offers can be conditional upon the outcome of the medical assessment.

3. If the medical assessment identifies any potential problems you should conduct a risk assessment to see if reasonable adjustments can remove any risk identified or reduce it to acceptable levels. If no reasonable adjustments can be made to enable the candidate to perform the role you should be able to withdraw the offer.

Enforcement

The Equality and Human Rights Commission (EHRC) can take enforcement action against any employer who does ask questions about health or disability prior to the offer of a job. Employers found guilty of discrimination will be required to draw up an action plan, overseen by the EHRC. Failure to comply could result in a £5,000 fine.

In addition, a job applicant who believes that they suffered a detriment for example by not being appointed because of questions they were asked about their health or medical history may use the questions asked as evidence of disability discrimination in a tribunal claim. It will then be for the employer to prove that the answers to these questions did not influence the decision not to appoint the applicant.

Legal case study – Cheltenham Borough Council v Laird

In the case of Cheltenham Borough Council v Laird, Cheltenham Borough Council sued their former Director, Christine Laird for fraudulent or negligent misrepresentation for failing to tell them about a history of depression in a pre-employment medical questionnaire.

Mrs Laird was employed as a Managing Director for the Council in 2002. Mrs. Laird's answered a number of questions on the pre-employment questionnaire including:

- Do you normally enjoy good health? She answered "Yes".
- Do you have either a physical and/or mental impairment? She answered "No".
- Have you any ongoing condition that would affect your employment? She answered "No - but I get occasional migraine but this does not affect my ability to work or usually require time off from work".

After starting work she was involved in a number of disputes in particular with the Council leader which eventually led to her going off sick from June 2004 until 2005 when she took early ill-

health retirement. The Council later discovered that Mrs Laird had had periods of depression dating back to 1997. It brought proceedings against her in the High Court for fraudulent or negligent misrepresentation on the grounds that she had concealed her medical history during the recruitment process and it claimed nearly one million pounds in damages.

The Council was unsuccessful because the High Court held that even if Mrs Laird's answers were false they were not made fraudulently or negligently. The Court said that it must ask itself how a reasonable person in Mrs Laird's position would construe the questions rather than how a medical professional would interpret them.

In relation to the first question the Court accepted that a reasonable person in Mrs Laird's position was likely to say that she normally enjoyed good health. Mrs Laird had depression only for limited periods prior to 2002 and this was not her 'normal' state of health. She had not been depressed for the majority of the time and had only had about three months of depression-related absences during her working life.

The Court decided that a reasonable person would interpret the second question as referring to an ongoing physical or mental condition. At the time when she completed the questionnaire it was reasonable for Mrs Laird to consider herself as not having such a condition. The third question was more difficult. The Court found that she had a vulnerability to depression and that it was this vulnerability that was ongoing, not the depression itself and she was not depressed when she completed the questionnaire. It concluded that a reasonable person might not have regarded this as an 'ongoing' medical condition that would affect her employment.

Mrs Laird's answers in the medical questionnaire were not therefore false and that she had not 'wilfully' meaning deliberately or at least recklessly withheld information from the Council.

This case highlights the pitfalls of using pre-employment medical questionnaires. These questionnaires rarely elicit useful information and often put talented people off applying to an employer who they fear will use the information to discriminate against them. Ill health, disability or even sickness absences in the past are not necessarily an indicator of future health or attendance. It is for this reason that the Equality Act 2010 makes it unlawful for employers to ask general questions about an applicant's health history prior to employment.

The aim is to help employers concentrate on the person's actual abilities rather than making assumptions based on past ill health. Questions must be limited to the applicant's ability to do the job for which they are applying and any reasonable adjustments they might need.

Communicating with the medical adviser and the employee

Often the information that is received from medical advisers offers little practical guidance. To get the most from medical advice it is important that you communicate in a way that best promotes an effective response. When you refer someone to a medical adviser you should supply objective and quantitative information about the job. A thorough job profile and briefing will help determine the quality of the final report.

Use the following principles to provide a comprehensive brief:

- Ensure that the medical adviser understands the Equality Act 2010 and your positive attitude to making reasonable adjustments.
- Describe the job role and any aspects that the person is having difficulties in fulfilling, in particular:

1. Specify the hours to be worked, whether flexible hours are possible and whether working from home is possible.
2. State whether the employee is required to travel.
3. Indicate physical requirements of the job, including strength and stamina.
4. Describe the working environment including temperature, lighting and any other unusual or significant features of the environment. Medical advisers should be encouraged to visit the site and observe work in practice where possible.
5. Note intellectual and emotional demands, including stress factors.
6. Outline your expectations – the key outputs required for the job and what would qualify the employee for promotion.
7. Provide a record of sickness absences to date.

- Wherever possible avoid medical questions – you rarely need to know about diagnosis, just the impact on the job.
- Explain any adjustments that you are considering.
- It is essential to pass on to the medical adviser the employee's signed consent.

It might be helpful to issue medical advisers with a pro forma to make sure that the report covers the necessary ground. Questions could include:

- Is this person capable of carrying out the duties of this particular job?
- Is there any reason why this capability might change over time?
- Would any reasonable adjustments such as altering working hours or providing equipment enable the person to continue in this role?
- If the person cannot continue in their existing role would they be able to return to an alternative post and if so what type of job?
- Could medical intervention, change of medication or specialist rehabilitation help the individual work to their full potential?
- If they are unable to return to work now, is it likely they will be able to do so in the foreseeable future?

Confidentiality

The issue of confidentiality is important and complex. Any medical adviser will be working within legal and ethical constraints. They must guarantee confidentiality to employees and also inform employers of the need for reasonable adjustments.

The Equality Act 2010 requires employers to consider reasonable adjustments, wherever they know, or could reasonably be expected to have known, that an employee or applicant is at a substantial disadvantage as a result of a disability.

The employer has an obligation to consider adjustments even if the disabled person insists that only the Occupational Health Adviser knows details about the precise nature of his disability. It is enough that the employer knows that the person has a disability and requires adjustments.

Part of the medical adviser's duty of care to an employee or job applicant is to advise them of the advantages and disadvantages of telling their employer about a disability. If the disabled person insists on confidentiality, but the physician considers it necessary to inform the employer, compromise might be sought. If the individual does not agree with the compromise, the physician should document the effort to argue this course. Employment tribunals would be expected to take this into account.

The compromise may well be that the diagnosis or 'label' of a disability is not disclosed, and the employer advised only of the adjustment needed.

The Data Protection Act (DPA) 1998 classifies information about a person's health as 'sensitive personal data'. Employers therefore need to ensure that any such information is used and stored in line with DPA's principles.

Communicating with the employee about the role of medical adviser

An employee is not obliged to attend a medical appointment unless it is written into an employee's contract that they must do so at the employer's request. However, such a compulsory model is less effective than a situation where the employee attends because they appreciate the value that the medical advice can have in identifying potential reasonable adjustments.

In order to contact the employee's GP directly for a report you will first need the person's written consent under the Access to Medical Reports Act 1988. You will also need to obtain their consent to seeing an occupational health adviser.

Before the person gives their consent or attends an appointment with an occupational health adviser, ensure that the following has been explained to the them:

- The reasons for requiring the information.
- That the medical adviser will be acting impartially. This is particularly important when the appointment is with an in-house occupational health service.
- What information will be disclosed and to whom. If facts need to be passed on any wider than a line manager or disability management coordinator, e.g. to their team members, further consent will be asked for and will only focus on reasonable adjustments.

- What will happen next, i.e. what consequences there might be?
- Where the information will be stored and that it will be done in accordance with any regulations, e.g. the Data Protection Act 1998.
- That in most cases there is no need for the precise details of the disability or the diagnosis to be contained in the report. However, in some instances such information will help their line manager to respond to their needs.
- What you will be asking information about, e.g. how long are they likely to be absent and what adjustments can be implemented to help their return to work.
- The nature, purpose and extent of any examination.
- That the employee has the right to see any medical report about him/her, ask for amendments if necessary, and the employer does not have the right to see it without signed consent.

Remember, you do not need to see an entire medical history about the person. A person's medical history is extremely personal and could contain information that the person is reluctant to share and has no relation to the current situation. In addition, the Data Protection Act 1998 (sometimes this is referred to as Data Protection Act, and sometimes DPA) states that information sought must be adequate, relevant and not excessive in relation to the purpose for which it is processed.

Only in extreme cases can an employee's right to confidentiality be overruled. For example, if a court requires the information, or if an occupational health practitioner considers that there is an overriding public interest for breaching confidentiality, e.g. a bus driver has been having regular blackouts but does not want the occupational health provider to inform his employer. In this instance the medical adviser may decide that disclosure is necessary for the health and safety of both the employee and others.

Dealing with conflicting opinions

The employer disagrees with the employee's GP

An employee's GP has signed them off work but your occupational health department provides medical advice that states the employee is able to return to the workplace. In this instance you can ask your occupational health adviser to communicate with the employee's GP outlining the adjustments that you are able to implement (e.g. a phased return to work) and encourage the GP to sign confirmation that the person is able to return once they are implemented.

Although a statement of fitness to work should contain advice from the GP about the type of 'support' that might facilitate a return to work, the GP may not be fully aware of the range of adjustments that an employer might be able to make. If the occupational health adviser and the employee can explain to the GP the adjustments that will ensure that their patient's health is not at risk the GP is likely to sign the person as fit. The adjustments could of course include the employee refraining from certain duties but not all aspects of their job.

Testing the medical advice

It is your duty as the commissioning employer to satisfy yourself about the quality of a medical report. Consider, has the adviser:

- Examined the person?
- Looked at the sickness record?
- Recommended or sought further specialist advice if the disability was, for example, fluctuating, progressive or episodic in effect (such as epilepsy), or especially affected by the environment (visual or hearing impairment, asthma)?
- Covered every aspect of your brief?
- Understood the key requirements of the job?
- Taken into account reasonable adjustments?
- Also, do you and the disabled individual understand what the medical adviser has said, and how he or she has justified the recommendations?

Allow the manager access to the adviser and time to obtain further information if required. Remember that reviews of the situation may be necessary as circumstances may change in the future.

Beware of misplaced assumptions, either yours or the adviser's. No two people have the same experience of disability, and no two disabilities will have the same impact on an individual's capacity to work. Recommendations must be based on specifics relating to the individual and their capacity to do the job in question.

Managing disability in the workplace

The impact of a disability depends on the interplay between the person, the impairment, the environment and the particular requirements of the job.

Employers need to establish a policy frame-work for disability management, which includes a process for making reasonable adjustments. Policy and procedures on disability must correlate. It is important to review policies on recruitment, long-term absence, health and safety, medical retirement, capability and occupational health to ensure that the disability dimension is reflected within them or that they are compatible with your disability policy and reflect the requirements of the Equality Act 2010.

Examples of where the role of the medical adviser should be outlined include:

- When it becomes necessary to revise health and fitness standards for particular jobs, where existing standards might unlawfully exclude a disabled person.
- Identifying responsibility for decision making when adjustments are being considered, and the circumstances that trigger the commissioning of a medical report and its scope.

Experiences of disability management in other countries, e.g. in Australia and Canada, offer models of operation and evaluation. The National Institute of Disability Management and Research (NIDMAR) in Canada suggests that success for disability management programmes can be judged by looking for:

- An increased rate of successful return after long-term absence.
- A reduction of costs associated with disability in the workplace.
- Improvements in employee morale.
- Increased productivity.

The crucial component is co-ordination of the many factors and personnel who may be involved. This is best accomplished by appointing a disability management co-ordinator.

The role of the disability management co-ordinator

The disability management co-ordinator is pivotal to the system, linking together opinions and expertise in assessment, operation and review (see 'key players' page 25). The human resources manager often takes this role.

A collaborative approach will be important, and there will be times when advisers need to work together as a team, especially on policy-making, in review and in resolution of disagreement. It is the co-ordinator who guides the process as a 'case manager'.

The disability management co-ordinator might:

- Identify individuals who need disability management or support in return-to-work.
- Work closely with the person through assessment, planning, decision-making and review.
- Protect the individual's rights, assure confidentiality and explain these to the individual.
- Manage assessment, and commission specialist advice where needed (including medical opinion).
- Brief advisers thoroughly.
- Co-ordinate the functional analysis of particular jobs, to include core competencies and capability standards required.
- Gather reports for cross-disciplinary review to interpret assessment.
- Identify adjustments, such as, equipment, changes to environment or modifications to the job – supported as appropriate by staff training.

- Manage the redeployment process.
- Document the process in relation to each individual to include any (material and substantial) justifications for less favourable treatment.
- Manage the termination of employment where necessary.

Key players in disability management

The disability management team could involve any, or all of the following:

- Disabled individual.
- Disability management co-ordinator (possibly fulfilled by the human resources or occupational health manager).
- Line manager.

and also, as appropriate:

- Occupational health specialist.
- Human resources manager.
- An Access to Work (AtW) adviser at your Access to Work (AtW) Operational Support Unit who can offer a range of practical and financial assistance in identifying and supplying reasonable adjustments.
- Health and safety officer.
- General practitioner (GP).
- Specialist medical adviser or paramedic such as occupational therapist, physiotherapist or a psychiatric nurse.
- Experts in ergonomics – corporate approaches vary and may involve several departments. A specialist design consultant may be brought in.
- Trade union representative.
- Other employee representatives.

A mix of people with this range of responsibilities, perspectives and functions might more easily understand the spread of health and safety, anti-discrimination and other employment regulations and how they apply.

Medical advice in practice

As already stated, responding to a disabled employee is a management decision and therefore it is vital that you do not overemphasis the role of the medical adviser. Medical advice should be viewed as an enabler to making informed decisions but not as a definitive source of guidance.

Most disabled people do not require the employer to do anything differently and therefore to associate disability with medical opinion can result in you receiving unnecessary information, which if acted upon inappropriately can lead to discrimination.

Recruitment

If applicants are required to undergo medical assessments ensure that the occupational health adviser seeks reports from appropriately qualified experts and actually sees and listens to the disabled person. This case (which was decided under the DDA but the principles still apply) illustrates the dangers of not doing so.

Legal case study – Mr Paul v National Probation Service (NPS) (now the National Offender Management Service)

Mr Paul has a history of chronic depression. In 2001 he applied separately for two positions

with the NPS: part-time handyman, working three hours per week and part-time Community Service Supervisor ("CSS"), working one day per week supervising groups of convicted offenders undertaking community service.

Mr Paul was interviewed for both positions. Although he had not been in paid employment since 1994 he had, been doing voluntary work with young people and for the Victim Support Scheme, where he was highly regarded. He had also been doing some private teaching and part-time work as a self-employed carpenter and plumber. At each interview he volunteered information about his disability.

Following the interviews Mr Paul was offered both positions subject to a satisfactory Occupational Health Report, a standard requirement in NPS's recruitment process. He completed the medical questionnaires, disclosing to NPS's Occupational Health Adviser (OHA) that he had a depressive condition, was under the care of a psychiatrist and on medication and that he was unable to work full-time. The OHA consequently requested a report, not from Mr Paul's psychiatrist but from his GP.

Mr Paul did not have a long-standing relationship with his GP and had had little contact with him, as he was primarily under the medical care of his psychiatrist. The GP's report, stated that Mr Paul's condition was stress-related and that he was likely to remain on medication for the foreseeable future. The GP did not venture any opinion as to Mr Paul's suitability for either post.

The OHA decided that the CSS post was likely to be particularly stressful, because the post-holder would have to take sole responsibility for the offenders in his care and may have to cope with some challenging behaviour. She concluded that it would not be fair on Mr Paul to put him in such a stressful job, albeit only for one day a week. Given his lengthy absence from employment, she recommended he be placed in a stress-free job and that his situation be reviewed in three months.

The CSS job could then be offered to him if he was reassessed as fit. Such reassessment would involve a review of his sickness absence during the three months, his work performance and a further health review. She recommended that Mr Paul was fit for the handyman role.

The NPS accordingly confirmed their offer of employment for the handyman position, which Mr Paul accepted, but withdrew their offer for the CSS role. Mr Paul contested this decision with both the OHA and the Personnel department, and offered more information from his psychiatrist who knew the circumstances of his case better than his GP.

He also requested that the OHA conduct a personal assessment of his condition and capabilities and offered more information about his duties as a supply teacher, which also entailed working at times with challenging young people. Both the OHA and the personnel department declined Mr Paul's offers of further information and reiterated their commitment to review his case in three months time.

Mr Paul brought a claim for disability discrimination but the employment tribunal concluded that although there was clear evidence that NPS has treated Mr Paul less favourably for a reason related to his disability, this treatment was justified because it was based on reasonable medical advice.

In coming to this conclusion the tribunal relied on the Court of Appeal decision in Jones v the Post Office which held that an employer can justify less favourable treatment where there has been a `properly conducted risk assessment relying on advice from a competent and suitably qualified medical expert.

Mr Paul appealed to the EAT, which found that the ET had failed to consider whether reasonable adjustments could have been made both to the recruitment process and to the post itself. If such reasonable adjustments could have been made then the decision to withdraw the job offer could not be justified.

TheEmployment Appeal Tribunal (EAT) found that reasonable adjustments could have been made and that the NPS had discriminated against Mr Paul by failing to:

1. Obtain specialist advice from Mr Paul's treating consultant on the issue of his fitness for the CSS post.

2. Listen to the further information he had offered and if appropriate referring the matter back to the OHA.

3. Make reasonable adjustments to the CSS job such as by increasing the induction period and/or providing more training and supervision.

The EAT rejected NPS's argument that offering Mr Paul the position of handyman while appraising his suitability for the CSS post was a reasonable adjustment. These were two separate posts and his success in being appointed to the position of handyman had no bearing on the discrimination he encountered in the recruitment process for the CSS role.

The EAT further held that the decision not to appoint Mr Paul could not be justified on the basis of Jones v Post Office as that judgment made it clear that only decisions based on reasonable medical evidence can be justified. The EAT found that the nature and quality of the report provided by Mr Paul's GP was highly questionable and that it did not constitute reasonable medical evidence as he had never treated Mr Paul for his condition. Furthermore at no point in his report did the GP comment on Mr Paul's fitness for the post.

This case makes clear once again that decisions to appoint (or retain) employees must be made by a well informed employer who has sought expert advice from an appropriately qualified medical professional for those particular circumstances. Employers cannot abdicate responsibility for management decisions to medical advisers. Even more importantly employers must consider reasonable adjustments to both the recruitment processes and the job itself if they are to be able to justify a conclusion on medical advice that the person is not fit to carry out the role.

It is discriminatory to single out disabled job applicants by requiring more medical or other information, than you would for a non-disabled applicant, unless the information relates directly to the position applied for.

Employers may find that medical advice is not always the most appropriate or helpful. If, say, a blind person applied for a management post, it would not be appropriate to obtain a medical report detailing the visual impairment. Instead, you should contact the local Access to Work Operational Support Unit for an assessment of practical adjustments to assist the applicant in the job.

Managing absenteeism

Managing long-term absenteeism will inevitably take employers into Equality Act 2010 territory. Best and most prudent practice is to ensure that reasonable adjustments are made quickly to reduce the length of the absences and encourage a return to work. A team approach works well in arriving at appropriate adjustments, as in the following scenario.

An employee with asthma is a good worker, but a pattern of absenteeism has emerged. Every year between September and April he is absent for about 30 days (not consecutive). What reasonable adjustments might the employer introduce?

The employee is unsure why the high absence rate is occurring and consents to an occupational health appointment. Occupational health state that climate change may affect the severity and frequency of the asthma attacks, resulting in more sickness absence.

They also identify possible adjustments, which include relocation, working from home when necessary, use of a face mask, allowing more than the usual sick leave for sickness. After gaining further consent the occupational health adviser will talk to the employee's GP to consider other approaches, for example, a change in medication or medical rehabilitation.

Medical retirement

Too often in the past there were assumptions that the onset of disability inevitably led to medical retirement. Where retirement is not what the disabled employee wants, these assumptions can be challenged under the Equality Act 2010. Employers must thoroughly investigate options for reasonable adjustments and opportunities for redeployment before considering retirement.

Legal case study – Jackson v South Yorkshire Ambulance Service NHS Trust

Forced retirement was disability discrimination

In Jackson v South Yorkshire Ambulance Service NHS Trust, the employment tribunal held that a paramedic with vision problems due to diabetes was unlawfully discriminated against by being forced into ill-health retirement without redeployment being considered.

Mr Jackson was a paramedic with the Trust. He worked with a technician in a team of two. Both are required to be able to drive the ambulance. Mr Jackson was moved to the role of technician after his skills in a particular area were questioned.

In May 2003, the Trust's occupational health adviser told them that Mr Jackson had significant health problems, and that she had serious concerns about his fitness to carry out his duties as

a paramedic or technician because he had lost some eyesight. This was attributable to diabetes but the Trust was not told at the time of the diagnosis. Mr Jackson went on special leave. A report in August stated that Mr Jackson's eyesight did not meet the required standard for driving an ambulance. His eyesight later improved but then deteriorated again.

At a meeting on 9 September 2003, Mr Jackson said he did not want to leave the service and asked about retraining for a job in the communications room. Mr Pease, director of operations, rejected that suggestion and said that Mr Jackson was not suitable for that role. The tribunal said that this view of Mr Pease seemed to have been an assumption unsupported by any evidence

or experience. Mr Pease suggested Mr Jackson apply for ill-health retirement and said that he wanted his application by the end of the month.

On 15 September 2003, the Trust received a medical certificate informing it, for the first time, that Mr Jackson had diabetes.

At a meeting in February 2004, Mr Jackson was again asked if he wanted to apply for ill-health retirement. Mr Jackson asked if the Trust had contacted a disability employment adviser who could explain the Trust's obligations to disabled employees. Mr Pease said that the company had only been advised of Mr Jackson's disability in September and therefore the procedure "does not apply". Mr Jackson subsequently applied for ill-health retirement and his employment came to an end. The tribunal found that Mr Jackson had been given no option but to retire, as the Trust had taken no real steps towards considering any other alternative, and that he was dismissed.

The tribunal found that Mr Jackson's dismissal was less favourable treatment related to his disability. He was dismissed because he could not drive ambulances, which was an integral part of his role. The tribunal accepted that no adjustments could be made to his role as a paramedic or technician as he could no longer drive an ambulance. However, the Trust was in breach of its duty to make reasonable adjustments by giving no real consideration to finding any suitable alternative employment for Mr Jackson. Because of this breach, the dismissal itself could not be justified. Mr Jackson also succeeded in an unfair dismissal claim.

This case was decided under the Disability Discrimination Act 1995 (DDA) which is now part of the Equality Act 2010 under which a similar outcome might be expected.

Regulatory framework

Disability discrimination under the Equality Act 2010 Direct discrimination

It is unlawful for an employer to treat a disabled job applicant, or employee, less favourably, simply because of their disability. This type of discrimination is known as direct discrimination. It is unlawful and cannot be justified.

Discrimination arising from disability

Discrimination arising from disability occurs when

- An employer knows or could reasonably be expected to know that the person is disabled.
- The disabled person experiences unfavourable treatment which arises as a consequence of their disability.

There is no requirement for a comparator, i.e. the disabled person does not have to show that they have been treated or would have been treated less favourably than someone else.

An employer can justify detrimental treatment arising out of a disability if they can show that it is a proportionate means of achieving a legitimate aim.

Indirect discrimination

The Equality Act 2010 has introduced the new concept of indirect disability discrimination.

Indirect discrimination occurs when a seemingly neutral provision, criterion or practice that applies to everyone places a group who share a characteristic, e.g. a disability at a particular disadvantage. An example could be a requirement for every employee to drive or hold a driving licence which places some people who cannot drive because of their disability at a greater disadvantage than other people.

Indirect discrimination may, however, be justified if it can be shown that the provision, criterion or practice is a proportionate means of achieving a legitimate aim, for example if driving is an essential part of the job.

Reasonable adjustments

An employer has a duty under the Equality Act 2010 to make reasonable adjustments (which includes providing auxiliary aids such as a support worker or information in alternative formats) to prevent a disabled employee from being placed at a substantial disadvantage by any physical feature of the premises, or by any provision, criteria or practice of the employer.

The duty applies to all aspects of employment, including recruitment and selection, training, transfer, career development and retention and redundancy. Failure to make a reasonable adjustment to a provision, criterion or practice, or to a physical feature of the workplace where this is placing a disabled person at a substantial disadvantage compared to non disabled people is unlawful and cannot be justified.

When deciding whether or not an adjustment is reasonable an employer should consider the:

- Effectiveness of the adjustment in preventing the disadvantage.
- Practicality of the adjustment.
- Financial and other costs of the adjustment and the extent of any disruption caused.
- Extent of the employer's financial or other resources.
- Availability to the employer of financial or other assistance to help make an adjustment, for example through the Access to Work (AtW) scheme and the support of Jobcentre Plus.

Equality duty

Public authorities and those carrying out public functions are required by the Equality Act 2010

to promote equality of opportunity for disabled people. This includes ensuring that third parties, such as recruitment agencies which provide services to the authority, do not discriminate against disabled people and that they positively encourage disabled candidates to apply for jobs within the authority. The duty also means that authorities need to think in advance about the needs of both disabled employees and potential disabled employees. Authorities should bear this in mind when reading this briefing.

As well as the Equality Act 2010, there is also a "statutory" Code of Practice on Employment. "Statutory" means that it is produced under the legislation, it is admissible as evidence and must be taken into account by courts and tribunals where relevant.

What is a disability?

The Equality Act 2010 gives rights to disabled people who have, or have had, a disability which makes it difficult for them to carry out normal day-to-day activities. The term 'disability' covers both physical and mental impairments that have a substantial and a long-term (i.e. has lasted or is expected to last for at least 12 months) adverse effect on the person's ability to carry out normal day-to-day activities. "Substantial" means more than minor or trivial.

Medical or other treatment and aids, including therapeutic treatments such as psychotherapy, which alleviate or remove the effect of the impairment are to be disregarded when assessing whether the impairment has a substantial adverse effect on normal day-to-day activities. Thus people with conditions such as insulin dependent diabetes, epilepsy or depression may be protected.

The only exceptions are people who wear spectacles or contact lenses – the effect on them must be assessed while the person is wearing the spectacles or contact lenses. However people who are registered as blind or partially sighted with an ophthalmologist or their local authority are deemed to be disabled.

Progressive conditions, which have a slight effect on day-to-day activities but are expected to become substantial, are covered, as are conditions that have a substantial effect for short periods but are likely to recur. However, HIV, multiple sclerosis and cancer are deemed to be disabilities from the point of diagnosis. Severe disfigurement is also classed as a disability if it is long term.

People who have had a disability in the past which had a substantial adverse effect on their normal day-to-day activities for a period of at least 12 months are also protected by the Act. This is the case even if their disability existed before the Equality Act 2010 or its predecessor the Disability Discrimination Act (DDA) came into force and they have now fully recovered.

People associated with a disabled person and people who are wrongly perceived to have

a disability are also protected from direct discrimination and harassment. The duty to make reasonable adjustments, however, does not extend to people associated with a disabled person or who are perceived to be disabled.

There is always a level of risk of both litigation and loss of reputation for an employer who fails to follow the requirements of the law because they assume that an employee will not meet the definition of disability. Remember that the purpose of a reasonable adjustment is to enable

an employee to perform to the best of their ability and to make a valuable contribution to your organisation.

If you are uncertain whether an individual is covered by the law, it would be prudent to assume that they are covered, and to consider what adjustments, if any, are necessary for them to do their job.

Health and safety legislation

Under health and safety law it is the duty of every employer to provide a safe system of work for all employees.

The Health and Safety at Work Act 1974

The Health and Safety at Work Act 1974 imposes several statutory duties upon the employer. For example, the employer must, "ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees".

Employers also have duties to protect the health and safety of others not directly in their employment, but who may be affected by the employer's activities or undertakings. For example, contractors, visitors, customers, members of the emergency services, and members of the public.

Employers' duties for the health, safety and welfare of all employees extend to:

- The provision and maintenance of plant and systems of work.
- Use, handling, storage and transport of articles and substances.
- Provision of information, instruction, training and supervision.
- Places of work and means of access and egress.
- The working environment, facilities and welfare arrangements.

The Management of Health and Safety at Work Regulations 1999

The Management Regulations give guidance to employers on how to manage their duty to provide safe working practices in a systematic way.

They require an employer to:

- Conduct risk assessments – make a suitable and sufficient assessment to identify the risks to the health and safety of their employees, and identify related precautions to manage these risks.
- Implement management systems – to ensure that precautions are implemented.
- Appoint a competent source of health and safety advice.
- Develop emergency procedures.

The Approved Code of Practice to the regulations states that employers, in undertaking their risk assessment, should identify groups of workers who might be particularly at risk. It refers to disabled staff as one of these groups.

Breach of this duty may lead to an improvement or prohibition notice being imposed on an employer or a criminal prosecution. Breach of more specific duties may also give rise to civil action against an employer.

Further information

Contact Business Disability Forum

Business Disability Forum

Nutmeg House, 60 Gainsford Street,
London SE1 2NY.

Telephone: **+44-(0)20-7403-3020**
Textphone: **+44-(0)20-7403-0040**
Fax: **+44-(0)20-7403-0404**

Email: **enquiries@businessdisabilityforum.org.uk**
Website: **businessdisabilityforum.org.uk**

About Business Disability Forum

Business Disability Forum is a not-for-profit member organisation that makes it easier and more rewarding to do business with and employ disabled people.

We have more than twenty years experience of working with public and private sector organisations, formerly as the Employers' Forum on Disability.

Our 400 members employ almost 20% of the UK workforce and together, we seek to remove the barriers between public and private organisations and disabled people. We are a key stakeholder for both business and government. We have contributed to the establishment and development of meaningful disability discrimination legislation in the UK.

Business Disability Forum provides pragmatic support by sharing expertise, giving advice, providing training and facilitating networking opportunities. This helps organisations become fully accessible to disabled customers and employees.

If you would like further information, contact Business Disability Forum's advice service on **+44-(0)20-7403-3020** or **advice@businessdisabilityforum.org.uk.**

Business Disability Forum products and services

Line manager guides

- Performance management
- Non-visible disabilities
- Reasonable adjustments
- Attendance management and disability
- Working with disabled colleagues
- Mental health at work

The line manager guide series, plus other best practice and etiquette guides, are available to purchase as electronic toolkits, in hard copy or licensed for your organisation's intranet. Please contact the team on **+44-(0)20-7089-2410** or email **publications@businessdisabilityforum.org.uk.**

Business Disability Forum membership enables you to:

- Access specialist advice and training on disability legislation and related employment regulations.
- Enhance your reputation with disabled people, employees, customers and government.
- Improve your business performance, enabling you to become a disability-smart organisation that has access to the widest possible talent and customer base.

Other Business Disability Forum products and services: Advice service

Our Members and Partners receive access to our free and confidential advice service. Our team of expert disability consultants are proud of the prompt and professional service they provide. They are available during normal working hours and will aim to respond within 24 hours or as quickly as possible in more complicated cases.

In addition to dealing with queries the service will review Members' and Partners' specific policies. This service is limited to two hours per policy and is by appointment only.

The advice service can be reached by telephone: **+44-(0)20-7403-3020,** email: **advice@businessdisabilityforum.org.uk** or textphone: **+44-(0)20-7403-0040**

Telephone surgeries

Legal

Bela Gor, expert in disability law and Business Disability Forum Legal Director runs free monthly in-house telephone surgeries. The surgeries are for members with questions on topical legal issues.

The surgeries aimed at lawyers, HR and diversity managers and employee representatives. Surgeries are limited to 20 minute slots and must be booked in advance by emailing: **events@businessdisabilityforum.org.uk** or by telephoning: **+44-(0)20-7403-3020**.

Disabled Employee Networks

Kate Nash OBE, a Business Disability Forum Associate, hosts a telephone surgery for Disabled Employee Network managers on the last Monday of every month. This advice is free for Partner Group members.

Surgery slots can be up to one hour long but must be booked in advance by emailing: **events@businessdisabilityforum.org.uk** or by telephoning: **+44-(0)20-7403-3020**.

Training and networking

Training

We develop and deliver tailored in-house disability training. Your organisation will benefit from our knowledge, experience and speakers from our network of disability experts.

Our experience of workplace disability issues, in both the private and public sectors, allows us to readily understand your training requirements and offer the right mix of training. We focus on providing value to your organisation.

Networking

We organise a comprehensive programme of events. All our events are based on promoting and sharing best practice and helping members to learn from each others experience.

You can contact our events team on:

Tel: **+44-(0)20-7403-3020**
Textphone: **+44-(0)20-7403-0040**
Email: **events@businessdisabilityforum.org.uk**

Our events are either free or discounted to Members and Partners. Paying events are open to non-member organisations and individuals.

Publications

The Business Disability Forum library is a unique source of accurate, authoritative and up-to-date information on business and disability. The briefings, toolkits and line manager guides cover every aspect of bringing organisations and disabled people together from recruitment and retention to reasonable adjustments and disabled employee networks. They provide practical advice to help organisations recruit and retain disabled people and serve disabled customers.

More than eight million copies of our publications are in circulation, used by forward-thinking organisations across the private and public sectors.

Members receive a free set of our world-leading publications on joining.

Consultancy

Our consultants are skilled at analysing your business performance on disability against the framework of the Disability Standard and can provide you with a detailed insight of where you are on disability, where you need to be and how to get there.

We;

- Review, audit and evaluate your processes and policies across the business including recruitment, customer services and workplace adjustments.
- Carry out gap analysis of what is working well for disabled customers and employees, identify where there are concerns and highlight any legal risks.
- Provide pragmatic and effective help with planning and implementation to bring about real change.

To discuss your consultancy needs and what we can offer please contact uson tel: **+44-(0)20-7403-3020**, or
email **consultancy@businessdisabilityforum.org.uk**

Other benefits popular with members include:

- Free e-check for your intranet or website.
- Free two-hour document review service.
- Participation in Business Disability Forum's Disability Standard, the authoritative measure of how disability-smart an organisation is, providing a way to improve customer and employee experiences.
- Member-only content on our Disability Standard website (which can be accessed by all employees).

Further information on joining Business Disability Forum's membership and a comprehensive list of our Partners can be downloaded from www.businessdisabilityforum.org.uk/become-a-member

Business Disability Forum

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Email: **enquiries@businessdisabilityforum.org.uk**
Website: **businessdisabilityforum.org.uk**

Further sources of reference

Useful organisations

National Register of Access Consultants (NRAC)

Fourth Floor, Holyer House, 20-21 Red Lion Court, London, EC4A 3EB

Tel: **+44(0)-20-7822-8282**
Email: **info@nrac.org.uk**
Website: **nrac.org.uk**

The National Register of Access Consultants (NRAC) is an independent register of accredited Access Auditors and Access Consultants who meet professional standards and criteria established by a peer review system. It is a UK-wide accreditation service for individuals who undertake access auditing and access consultancy.

Centre for Accessible Environments (CAE)

4th Floor, Holyer House, 20-21 Red Lion Court, London EC4A 3EB

Tel/textphone: **+44(0)-20-7822-8232**
Fax: **+44(0)-20-7822-8261**
Email: **info@cae.org.uk**
Website: **cae.org.uk**

The CAE is an Information and training body which has been the leading authority and resource in the UK, for over 30 years, on inclusive design and access to the built environment for disabled and older people.

Equality Advisory Support Service (EASS)

Freepost equality advisory support service FPN4431

Telephone: **+44(0)-808-800-0082**
Textphone: **+44(0)-808-800-0084**
Website: **equalityadvisoryservice.com**

EASS provides information advice and support on discrimination and human rights issues to individuals in England, Scotland and Wales, recognising the constitutional, legal, social and policy differences.

The Equality and Human Rights Commission (EHRC)

Website: **equalityhumanrights.com**

EHRC has a statutory remit to promote and monitor human rights; and to protect, enforce and promote equality across the nine "protected" grounds - age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment.

Equality Commission for Northern Ireland

Equality House, 7 - 9 Shaftesbury Square, Belfast, BT2 7DP

Telephone: **+44(0)-28-90-500-600**
Textphone: **+44(0)-28-90-500-589**
Fax: **+44(0)-28-90-248-687**
Email: **information@equalityni.org**
Website: **equalityni.org**

The Commission promotes equality and challenges discrimination in Northern Ireland.

Access to Work

London

Telephone: **+44(0)-20-8426-3110**
Textphone: **+44(0)-20-8426-3133**
E-mail: **atwosu.london@jobcentreplus.gsi.gov.uk**

Scotland

Telephone: **+44(0)-141-950-5327**
Textphone: **+44(0)-845-602-5850**
E-mail: **atwosu.glasgow@jobcentreplus.gsi.gov.uk**

Wales

Telephone: **+44(0)-2920-423-291**
Textphone: **+44(0)-2920-644-886**
E-mail: **atwosu.cardiff@jobcentreplus.gsi.gov.uk**
Website: **gov.uk/access-to-work/overview**

Access to Work (AtW) is a government scheme run by Jobcentre Plus that covers the financial cost of providing disability solutions that would otherwise not be considered a "reasonable adjustment".

Jobcentre Plus

Website: **gov.uk/contact-jobcentre-plus**

Jobcentre Plus supports people of working age from welfare into work and helps employers to fill their vacancies.

ACAS

Euston Tower, 286 Euston Road, London NW1 3JJ.

Telephone Helpline: **+44(0)-8457-38-37-36**
Text Relay: **+44(0)-8457-47-47-47** (Monday-Friday 8am-8pm, Saturday 9am-1pm) 18001 08457 474747
Website: **acas.org.uk**

ACAS provides independent advice on employment disputes for employers and employees.

Citizens Advice Bureau

England: **+44(0)-8444-111-444**
Wales: **+44(0)-8444-77-20-20**
TextRelay: **+44(0)-8444-111-445**
Website: **citizensadvice.org.uk**

The Citizens Advice Bureau advises on employment and benefits issues, including access to legal advice.

Disability guidance

Two Ticks or disability symbol

The two ticks scheme is a recognition given by Jobcentre Plus to employers based in Great Britain who have agreed to take action to meet five commitments regarding the employment, retention, training and career development of disabled employees.

Tailored adjustment agreement

Website: **businessdisabilityforum.org.uk/talent-recruitment**

This is a live document recording the reasonable adjustments that have been agreed for an employee.

Employment resources

Society of Occupational Medicine

Hamilton House, Mabledon Place, London WC1H 9BB

Tel: **+44(0)-20-7554-8628**
Fax: **+44(0)-20-7554-8526**
Email: **admin@som.org.uk**
Website: **som.org.uk**

Society for doctors providing occupational health services in the workplace, the armed services and academic institutions in the UK.

Gov.UK

Website: **gov.uk**

The government's website has information about disability rights and employment.

Employment Tribunal (ET)

Open from 9.00am to 5.00pm Monday to Friday.

Enquiry Line: **+44(0)-845-7959775**
Textphone: **+44(0)-845-7573722**
Website: **justice.gov.uk/tribunals/employment**

Provides individuals with the opportunity to pursue employment and discrimination complaints against their employer.

Employment Appeal Tribunal (EAT)

Website: **justice.gov.uk/tribunals/employment-appeals**

Provides individuals with the opportunity to appeal against Tribunal decisions regarding employment and discrimination complaints against their employer.

Legislation

Data Protection Act 1998

If you handle personal information about individuals, you have a number of legal obligations to protect that information under the Data Protection Act 1998.

The Information Commissioner's Office also has guidance for organisations on handling personal data on their website: www.ico.gov.uk/for_organisations/data_protection.aspx Equality Act 2010

Website: **legislation.gov.uk**

The Equality Act came into force from October 2010 providing a modern, single legal framework with clear, streamlined law to more effectively tackle disadvantage and discrimination.

The Health and Safety Executive (HSE)

Website: **hse.gov.uk**

HSE is the national independent watchdog for work-related health, safety and illness. They are an independent regulator and act in the public interest to reduce work-related death and serious injury across Great Britain's workplaces.

The Health and Safety at Work Act 1974

Website: **hse.gov.uk**

The Health and Safety at Work Act 1974, also referred to as HSWA, HSW Act or HASAWA, is the primary piece of legislation covering occupational health and safety in Great Britain. The Health and Safety Executive with local authorities (and other enforcing authorities) is responsible for enforcing the Act and a number of other Acts and Statutory Instruments relevant to the working environment.

The Management of Health and Safety at Work Regulations 1999

Website: **legislation.gov.uk**

The Management of Health and Safety at Work Regulations have been put in place in order that organisations take care of everyone they work in conjunction with – employees, contractors, clients or customers. The aim of the regulations is to reduce damage by assessing all potential risks and to create action plans for emergencies.

Workplace (Health, Safety and Welfare) Regulations 1992

Website: **legislation.gov.uk**

The Workplace (Health, Safety & Welfare) Regulations 1992 cover any premises or part of premises (excluding domestic premises) which are made available to any person as a place of work. They cover a wide range of basic health, safety and welfare issues.

Code of Practice on Employment

Website: **equalityhumanrights.com**

Provides guidance to individuals, businesses, employers and pubic authorities with the information they need to understand the Equality Act, exercise their rights and meet their obligations.

Equality duty

Website: **equalityhumanrights.com**

The public sector equality duty consists of a general equality duty, which is set out in section 149 of the Equality Act 2010 itself, and the specific duties which came into law on the 10th September 2011 in England and 6 April in Wales. The general equality duty came into force on 5 April 2011.

Flexible Working Regulations 2006

Website: **legislation.gov.uk/uksi/2006/3314/contents/made**

Under the terms of this act employers are obliged to consider requests for flexible working from those who care for certain adults.

Disability awareness training

Business Disability Forum

Nutmeg House, 60 Gainsford Street, London, SE1 2NY

Telephone: **+44-(0)20-7403-3020**
Textphone: **+44-(0)20-7403-0040**
E-mail: **events@businessdisabilityforum.org.uk**

Business Disability Forum offers a wide range of in-house training courses which can be tailored to an organisation's specific needs. Our organisation has over 20 years of experience and access to an extensive network of disability experts, which can benefit your business.

Enhance the UK

171, Narbeth Drive, Aylesbury, HP20 1PZ

Telephone: **+44(0)-7930-289-162**
E-mail: **info@enhancetheuk.org**
Website: **enhancetheuk.org**

Enhance the UK - are a user-led charity aiming to educate society about disability and assist those with a disability in playing a full and active role in society. Their aim is to remove the embarrassment of social interaction when working with disabled people by teaching simple hints and tips in a fun interactive learning environment. They provide a range of training targeted to the needs of individual organisations and companies.

Royal National Institute of Blind People (RNIB)

RNIB Access Consultancy Services, PO Box 173, Peterborough, PE2 6WS

Telephone: **+44(0)1733-37-53-70**
E-mail: **accessconsultancy@rnib.org.uk**
Website: **rnib.org.uk**

Royal National Institute of Blind People (RNIB) is the leading charity offering information, support and advice to almost two million people with sight loss. They offer training for customer facing teams to help them to identify and meet the needs of customers with disabilities.

Equo Limited

38 Alexandra Road, Lowestoft, Suffolk, NR32 1PJ

Telephone: **+44(0)845-250-0617**
E-mail: **training@equo.co.uk**
Website: **equo.co.uk**

Equo Limited offers disability awareness training as an online module, with the aim of helping people be more confident in their day-to-day dealings with disabled people.

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.

Business Disability Forum

Building disability-smart organisations

Contact us

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