

Employment

A practical guide to the law and best practice for employers

What is a disability?

Advertising

Recruitment and selection

Retention

Getting it right – the law

Advice and support

Mental health in the workplace

Disability and employment

One in five adults in Great Britain has a disability or long-term health condition. The legal definition of disability is much broader than most people realise. It covers people with mobility difficulties, such as those who use wheelchairs; people with sight or hearing impairments; people with learning disabilities; people with long-term conditions such as depression, diabetes or sickle-cell anaemia. Most people acquire a disability or health condition rather than being born with one. It is likely that in most workplaces there are people who already meet the definition of disability within the Disability Discrimination Act and that most employers will encounter people who develop a disability or health condition while in work.

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Further information

Why does disability matter?

- Because one in five people of working age has a disability or long-term health condition – you probably already employ someone in this category and they may be among your best job applicants.
- Because the UK has an ageing population and so more and more of us will be living and working with a disability or health condition.
- Because discrimination against disabled people is not just unlawful, it's also unfair and a huge waste of human potential.

The facts

Around 10 million people in Great Britain have a disability or long-term health condition.

By 2006, 45–59 year olds will form the largest group in the labour force.

By 2010, 40 per cent of the UK population will be over 45 – the age at which your chance of living with a disability or health condition sharply increases.

Over 1 million disabled people are not in work and on benefits but keen to work.

People with a disability or health condition have been denied the opportunity to enter or remain in work because of fears and stereotypes about their abilities and because of policies and practices that hold them back. Technology is liberating people who would previously have struggled to find work in the past and many more employers understand the benefits of providing flexible working opportunities to their staff.

Under the Disability Discrimination Act 1995 (DDA), it is unlawful for an employer of any size to discriminate against someone defined as disabled for the purposes of the Act for a reason that relates to disability.

Many organisations are already addressing disability, often as part of a wider diversity strategy. They recognise that diversity within their workforce brings many business benefits and is a central factor in determining efficiency, productivity and overall business success.

With particular reference to people with disabilities and health conditions in your workforce, benefits include:

- Offering you more choice in recruitment – for example, by widening the net for recruits if your skill pool is limited or employees are in short supply.
- Providing you with employees who may stay in the job longer, have a strong commitment to work, good punctuality records and low absentee rates.
- Keeping your employees' valuable skills, experience and expertise within the organisation, at the same time avoiding the costs of recruiting and training new people.
- Allowing you to identify where changes can be made that will almost certainly benefit many people, not just employees with disabilities and health conditions. Making things work better for everyone is both common sense and sound business practice.
- Reflecting the diversity of British society and providing valuable insight into the needs of over 10 million disabled people in Great Britain – and tapping into an estimated annual spending power of over £50 billion.
- Bringing different life experiences and new skills to your organisation.
- Helping you to foster good relations with your employees by showing that you value everyone and treat everyone fairly.

The case for a best practice approach to disability

Disability legislation is still evolving. Therefore, just trying to work to the letter of the law is a dangerous strategy.

Trying to establish whether someone is 'disabled' according to the terms of the Disability Discrimination Act 1995 (DDA) is likely to be unhelpful in most cases, as the fine detail of the law is generally only understood by lawyers.

Many people with a disability or long-term health condition who have rights under the DDA don't choose to use the term 'disabled' to describe themselves – recent research by the Department for Work and Pensions shows that 52 per cent of those who would meet the definition of disability in the DDA prefer not to. Relying on the definition within the Act encourages an inquisitorial approach that focuses very much on the individual as a 'problem' rather than looking at what can be done to enable the person to enter or remain in employment.

By focusing on the law, rather than on showing that you value the individual, you will not only lose that employee's goodwill and delay making the necessary adjustments that will keep them in work, you will also increase the risk of litigation.

Taking a best practice approach will:

- help you to take account of all the factors in each individual's case
- help you to focus on getting the right person for the job, keeping your employees and getting the best out of them
- provide a framework to help you avoid unnecessary, time consuming and, possibly, costly charges of discrimination.

When you think of a disabled person, who comes to mind? Research shows that most people, including those with conditions that mean they would be defined as 'disabled' by the Disability Discrimination Act (DDA), immediately think of a wheelchair user or perhaps someone who is blind.

But what about the following – a person with a cleft palate, someone with facial burns as the result of a fire, someone with multiple sclerosis or Down's syndrome, someone who has had a limb amputated, has tunnel vision or uses a hearing aid? Think about someone with chronic depression, back pain, repetitive strain injury or cancer. Their condition may not be visible, they may not think of themselves as disabled, but in the terms of the DDA, they still have rights. This is because the law is about tackling unfairness and disadvantage – and though physical access is crucial and to most people quite obvious, the Act goes beyond that.

For example, a young man with a learning disability is turned down for a shelf-stacking job because the manager thinks he might be disruptive. The manager has no grounds for thinking this – he has made assumptions about the young man and the nature of his impairment. In fact, with some support while he learns the job, the young man could become a loyal, hard-working and effective employee.

Offering a bit more training or support to the young man would be making a 'reasonable adjustment' in the terms of the Act – responding to his needs as an individual and getting the best out of him as a result.

Who is disabled?

The concept of reasonable adjustments is a cornerstone of the DDA. Making an adjustment means being flexible so that it is possible for people with disabilities and health conditions to join you as employees and to work effectively. It makes good business sense to ensure that everyone can work to their full potential.

The range of people who have protection under the DDA from being treated unfairly is very broad. There is no definitive list of conditions or disabilities (that would be enormous), the definition is based upon the impact of a condition, but it is likely to include those with age-related conditions such as a worsening hearing impairment, rheumatism or arthritis, health conditions such as a heart condition, diabetes, HIV, renal failure or sickle-cell anaemia.

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Who is liable for unlawful acts?

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When is it 'reasonable' for an employer to have to make adjustments?

What other forms of occupation are covered by the Act?

The following definitions and explanations relate to disability, the Disability Discrimination Act 1995 Part 2 (employment provisions) and the Disability Discrimination Act 1995 (Amendment) Regulations 2003. These are current since 1 October 2004. Make sure you are aware of changes to legislation by keeping up-to-date with information posted on the DRC website www.drc-gb.org.

[link](#)

Definition of impairment

The term 'impairment' is not defined within the Disability Discrimination Act 1995 (DDA). It is used, rather than the term 'disability', when referring to a limitation arising from a loss or abnormality in the function or structure of the body. For example:

- Physical or sensory impairments would include lack of manual dexterity, lack of mobility, visual impairment, hearing impairment or speech impairment.
- Mental impairments would include a wide range of conditions related to mental functioning such as learning, psychiatric and psychological disabilities.

The meaning of disability

The DDA makes it unlawful to discriminate against disabled people, or people who have had a disability.

Section 1 of the Act defines a person as having a disability if he or she has a physical or mental impairment which has an effect on his or her ability to carry out normal day-to-day activities. That effect must be:

- substantial (that is, more than minor or trivial), and
- adverse, and
- long term (that is, it has lasted or is likely to last for at least a year or for the rest of the life of the person affected).

For a fuller understanding and explanation of the concept of disability under the Act, refer to the Government publication 'Guidance on matters to be taken into account in determining questions relating to the definition of disability'. Where relevant, guidance must be taken into account in any legal proceedings. It is available from The Stationery Office on:

Telephone: 0870 600 5522

Fax: 0870 600 5533

Email: book.orders@tso.co.uk

Website: www.tso.co.uk

[link](#)

Frequently asked questions about the meaning of disability

Question – An employee has asked for a disability-related adjustment to be made. Can I ask her for evidence that her impairment meets the definition within the Act?

Answer – Yes. However, you should not ask for more information than is necessary for determining whether a reasonable adjustment is reasonable and/or appropriate. In addition, you should not ask for evidence if the impairment and the need for adjustment are obvious.

It should be noted that it will often be far simpler, more cost-effective and better employment practice to merely

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implement the reasonable adjustment requested rather than become tied up in determining whether or not the employee meets the precise definition within the Act.

Question – When is a person disabled?

Answer – A person has a disability for the purposes of the Disability Discrimination Act if he has a physical or mental impairment, which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities.

Question – What about people who have recovered from a disability?

Answer – People who have had a disability within the definition are protected from discrimination even if they have since recovered.

Question – What does ‘impairment’ cover?

Answer – It covers physical or mental impairments; this includes sensory impairments, such as those affecting sight or hearing.

Question – Are all mental impairments covered?

Answer – The term ‘mental impairment’ is intended to cover a wide range of impairments relating to mental functioning, including what are often known as learning disabilities. The Act says that a mental illness must be a clinically well-recognised illness in order to amount to a mental impairment. A clinically well-recognised illness is one that is recognised by a respected body of medical opinion.

Question – What is a ‘substantial’ adverse effect?

Answer – A substantial adverse effect is a negative effect that is more than minor or trivial. The requirement that an effect must be substantial reflects the general understanding of disability as a limitation going beyond the normal differences that might exist among people.

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Question – What is a ‘long-term’ effect?

Answer – A long-term effect is one:

- which has lasted at least 12 months, or
- where the total period for which it lasts is likely to be at least 12 months, or
- which is likely to last for the rest of the life of the person affected.

Effects that are not long-term would therefore include loss of mobility due to a broken limb that is likely to heal within 12 months and the effects of temporary infections, from which a person would be likely to recover within 12 months.

Question – What if the effects come and go over a period of time?

Answer – If an impairment has had a substantial adverse effect on normal day-to-day activities but that effect ceases, the substantial effect is treated as continuing if it is likely to recur – if it is more probable than not that the effect will recur. The only specified exception within the Act is hay fever, which is not deemed to be a recurring condition for the purposes of the Act.

Question – What are normal day-to-day activities?

Answer – These are activities that are carried out by most people on a fairly regular and frequent basis. The term is not intended to include activities which are normal only for a particular person or group of people, such as playing a musical instrument or sport to a professional standard or performing a skilled or specialised task at work. However, someone who is affected in such a specialised way but is also affected in normal day-to-day activities would be covered by this part of the definition.

The test of whether an impairment affects normal day-to-day activities is whether it affects one of the broad categories of capacity listed in Schedule 1 of the Act. These are:

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- mobility
- manual dexterity
- physical coordination
- continence
- ability to lift, carry or otherwise move everyday objects
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand
- perception of the risk of physical danger.

Question – What about treatment?

Answer – Someone with an impairment may be receiving medical or other treatment which alleviates or removes the effect (though not the impairment). In such cases, the treatment is ignored and the impairment is taken to have the effect it would have had without such treatment. This does not apply if substantial adverse effects are not likely to recur even if the treatment stops (ie the impairment has been cured).

Question – Does this include people who wear glasses?

Answer – No. The sole exception to the rule about ignoring the effects of treatment is the wearing of glasses or contact lenses. In this case, the effect while the person is wearing glasses or contact lenses should be considered.

Question – Are people who have disfigurements covered?

Answer – People with severe disfigurements are covered by the Act. They do not need to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities.

Question – What about people who know their condition is going to get worse over time?

Answer – Progressive conditions are conditions that are likely to change and develop over time. Examples are cancer, multiple sclerosis, muscular dystrophy and HIV infection. Where a person has a progressive condition, they will be

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covered by the Act from the moment the condition leads to an impairment which has some effect on their ability to carry out normal day-to-day activities, even if it is not a substantial effect, if that impairment is likely eventually to have a substantial adverse effect on such an ability.

Question – What about people who are blind or partially sighted?

Answer – People who are:

- registered as blind or partially sighted, or who are certified as being blind or partially sighted by a consultant ophthalmologist, are automatically treated under the Act as being disabled
- not registered or certified as blind or partially sighted will be covered by the Act if they can establish that they meet the Act's definition of disability.

Question – Are people with genetic conditions covered?

Answer – If a genetic condition has no effect on the ability to carry out normal day-to-day activities, the person is not covered. Diagnosis does not in itself bring someone within the definition. If the condition is progressive, then the rule about progressive conditions applies.

Question – Are any conditions specifically excluded from the coverage of the Act?

Answer – Yes. Certain conditions are not impairments for the purposes of the Act. These are:

- addiction to or dependency on alcohol, nicotine, or any other substance (other than as a result of the substance being medically prescribed)
- seasonal allergic rhinitis (hay fever), except where it
- aggravates the effect of another condition
- tendency to set fires
- tendency to steal

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- tendency to physical or sexual abuse of other persons
- exhibitionism
- voyeurism
- disfigurements that consist of a tattoo (which has not been removed), non-medical body piercing.

Question – What if an employer does not believe the person concerned has a disability?

Answer – If the employer is doubtful about the person having a disability, they can ask for evidence about the condition.

Who has obligations under Part 2 of the Act?

Part 2 of the Act deals with employment. The Act defines 'employment' as employment under a contract of service or of apprenticeship or a contract personally to do any work (including self-employment).

Anyone who works under a contract falling within this definition is an employee, whether or not they work full-time or are permanently employed.

A person who is recruiting an employee has duties under the Act even if they are not yet an employer (because the recruit will be the first employee).

The Act applies to all employers (apart from the armed forces) in respect of the people they employ wholly or partly at an establishment in Great Britain. Protection under the Act extends to employment wholly outside Great Britain, provided the employment has a sufficiently close connection with Great Britain. Certain employment on-board ships, hovercraft and aircraft is also covered.

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The Act also contains provisions to prevent discrimination by people or organisations that provide employment services, such as employment agencies and careers guidance services. See the section on [Recruiting contract workers through employment services](#).

[link to 3.8](#)

Although not falling within the definition of employment, the following occupations are still covered by the duties concerning discrimination and harassment. Where appropriate, explanations of specific duties in relation to these occupations are given later in this chapter.

- Contract workers – see the section on Recruiting contract workers through employment services.
- Office holders.
- Police officers.
- Partners in firms.
- Barristers and advocates.
- People undertaking practical work experience for a limited period for the purposes of vocational training.

In addition, the Act may also impose obligations upon the following:

- trustees and managers of occupational pension schemes
- insurers who provide group insurance services for an employer's employee
- providers of employment services
- landlords of premises occupied by an employer or other person to whom Part 2 of the Act applies (see the section on [Physical changes to premises](#))
- employees and agents of a person to whom Part 2 of the Act applies
- Ministers of the Crown, government departments and agencies.

[link to 3.34](#)

Where appropriate, explanations of specific duties in relation to these occupations are given below.

Special provisions apply to trade organisations and qualifications bodies. These are explained in the relevant Code of Practice [click here](#).

[link to 4.1](#)

What constitutes unlawful discrimination under Part 2 of the Act?

The Act makes it unlawful for an employer to discriminate against disabled people. The duty not to discriminate still applies after a disabled person's employment has come to an end, for example in relation to not giving an unfair reference or harassing someone who has taken a case in an employment tribunal. The Act does not prevent employers from treating disabled people more favourably than those who are not disabled or stop an employer from appointing the best person for the job.

In relation to recruitment (including potential applicants and those who have notified the employer that they may be an applicant), the employer must not discriminate against a disabled person:

- in the arrangements made for determining who should be offered employment
- in the terms on which the disabled person is offered employment
- by refusing to offer, or deliberately not offering, the disabled person employment.

In relation to all stages of employment including dismissal, the employer must not discriminate against a disabled person:

- in the terms of employment which it gives them
- in the opportunities that it offers them for promotion, transfer, training or receiving any other benefit

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- by refusing to offer them, or deliberately not offering them, any such opportunity
- by dismissing them or subjecting them to any other detriment.

There are four forms of discrimination under Part 2 of the Act:

- **direct discrimination**
- **failure to comply with a duty to make reasonable adjustments**
- **disability-related discrimination**
- **victimisation.**

Direct discrimination

This involves less favourable treatment on the grounds of disability, when compared to how another person (without that disability, but whose relevant circumstances, including abilities, are the same or similar) would be treated.

Karen works in a back office at a supermarket. She has a facial disfigurement. She applies for promotion to a customer-facing role. Even though Karen has the same experience and qualifications as other candidates, her manager refuses to support her application as he feels her appearance would be off-putting for customers. A less experienced colleague gets the job. Karen's treatment stems from the manager's prejudice and attitudes. She would not have received this treatment if she had not had a disability – the facial disfigurement. It is less favourable treatment on the grounds of disability. It amounts to direct discrimination.

Direct discrimination can never be justified. However, less favourable treatment that does not amount to direct discrimination can sometimes be justified. In deciding whether the treatment is justified, and therefore whether there has been disability-related discrimination, the question of reasonable adjustments has to be taken into account.

Failure to comply with a duty to make reasonable adjustments

Failure to comply with a duty to make reasonable adjustments amounts to discrimination in its own right (as well as being relevant to disability-related discrimination). This is a failure to change arrangements that place the disabled person at a disadvantage when compared to a non-disabled person.

A job applicant, who has a visual impairment, asks for information in large print format. The secretary dealing with this does not understand what she is being asked to do and is not aware of her own or her employer's duty under the DDA. She ignores the request and the prospective applicant is unable to apply for the vacancy. This is a failure to comply with a duty to make a reasonable adjustment and is unlawful.

Failure to comply with a duty to make reasonable adjustments can never be justified. More information about 'reasonableness' is given below.

Where an employer has failed to make a reasonable adjustment, and where direct discrimination does not apply, disability-related discrimination may still apply.

Disability-related discrimination

In the case of disability-related discrimination, the reason for less favourable treatment relates in some way to the person's disability (but not directly to the disability itself). In order that the less favourable treatment can be determined, a comparison is made with a person to whom the disability-related reason does not apply and the employer cannot show this treatment to be justified.

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Frank had a leg amputated as the result of a car accident. After returning to work he took time off frequently due to depression. The company rigidly applied its sick leave policy to all employees who take more than one period of sick leave over a two-month period. Frank was dismissed because of his poor attendance record, even though the absences were disability-related. While the dismissal was not direct discrimination because it did not directly relate to the amputation, it is still likely to be less favourable treatment for a disability-related reason (dismissal because of sickness absences that occur as a result of depression). The employer should have made a reasonable adjustment to cover Frank's (and others') disability-related leave by having separate policies for non-disability related sick leave and for disability-related absence. These could then be treated in different but appropriate ways, avoiding disability-related discrimination.

Disability-related discrimination occurs in circumstances where the discrimination does not amount to direct discrimination but is nevertheless unlawful.

Employers may be able to justify disability-related discrimination in limited circumstances. The Act says that justification is possible if, and only if, the reason for the treatment is both material (that there is a reasonably strong connection between the reason given for the treatment and the circumstances of that particular case) and substantial (in the context of justification, that the reason must carry real weight and be of substance).

However, this type of justification is not possible in circumstances where the employer is also under a duty to make a reasonable adjustment. In these circumstances, consideration must also be given to whether the treatment would still have been justified even if the employer had complied with the duty to make reasonable adjustments.

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Victimisation

Victimisation is illegal under the DDA where an employer treats someone (whether or not they are disabled) less favourably than others would be treated in the same circumstances because they have provided (or may in the future provide) evidence or information in connection with proceedings under the DDA or done anything else under or by reference to the Act or have alleged that someone has contravened the DDA (whether or not the allegation is later dropped).

Victimisation can never be justified. However, if the allegation was false and not made in good faith, it is not victimisation to treat the person concerned less favourably.

Harassment

In addition, it is unlawful for an employer to subject a disabled person to harassment which relates to their disability by engaging in unwanted conduct that has the purpose or effect of violating the disabled person's dignity or by creating an intimidating, hostile, degrading, humiliating or offensive environment for them – whether or not the above behaviour has the intended effect on the disabled person.

Instructions to discriminate

It is also unlawful for an employer to instruct or put pressure on a person over which they have influence or authority to act unlawfully. Only the Disability Rights Commission can take action against employers for this type of unlawful practice.

What about other statutory obligations?

Where other statutory obligations apply, the requirements of the DDA can only be overridden where the other statutory obligation is specific in its requirement, leaving the employer with no choice other than to act in a particular way. Thus, disability discrimination will only be permitted in rare circumstances.

Who is liable for unlawful acts?

Employers are liable for the actions of:

- agents, such as health advisers or recruitment agencies, whether or not their actions are with the express or implied authority of the employer
- their employees, in the course of their employment.

If challenged with discrimination, it is a defence that the employer took 'such steps as were reasonably practicable' to prevent the actions of the employee(s). This would include providing employees with disability equality training or other guidance on disability. However, it is not a defence for the employer simply to show that the action took place without their knowledge or approval.

In addition, an employer (or any other person) who knowingly helps another (for example, an employee or agent) to do something made unlawful by the Act will be treated as having done the same kind of unlawful Act. Where an employee discriminates against or harasses a disabled employee, the employer will be liable for that unlawful act – unless he or she can show such steps as were reasonable were taken to prevent the unlawful act in question. The employee who committed the discrimination or harassment will be liable for aiding the unlawful act and this will be the case even if the employer is able to show that they took reasonable steps to prevent the unlawful act.

Rights cannot be waived or compromised under the Act, either by the disabled person or by the employer.

What is a duty to make reasonable adjustments?

One of the ways in which discrimination occurs is when an employer fails to comply with the duty to make reasonable adjustments in relation to a disabled person.

The duty to make a reasonable adjustment arises where a disabled person is actually put at a substantial (not minor or

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trivial) disadvantage, when compared with people who are not disabled, because of:

- **a provision, criterion or practice applied by or on behalf of the employer** – for example, the arrangements made for determining who should be offered employment (selection and interview procedures and the premises used for such procedures) and terms and conditions or arrangements on which employment, promotion, transfer, training or any other benefit is offered (job offers, contractual arrangements and working conditions)
- **any physical feature of premises occupied by the employer** – for example, features arising from the design or quality of the building (whether temporary or permanent), such as steps, doors, emergency escape routes, floor coverings and all other fixtures, fittings, furnishings, equipment and materials.

The employer has to take such steps as are reasonable, in all the circumstances, to prevent or reduce that disadvantage. The employer only has a duty to make an adjustment if they know, or could reasonably be expected to know, that the employee (or potential employee) has a disability and is likely to be placed at a substantial disadvantage. The employer must do all he or she reasonably can to find out whether this is the case. There is no onus on the disabled person to suggest what adjustments should be made, although it is good practice for employers to ask.

If an employer's agent, such as an occupational health adviser, HR officer or line manager, knows in that capacity of an employee's (or potential employee's) disability, the employer will not usually be able to deny knowledge of the disability and therefore of any obligation to make a reasonable adjustment.

Employers need to ensure that where information about disabled people may come through different channels, there is a suitably confidential means for bringing this information together. This will make it easier for the employer to fulfil their duties under the Act.

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Where the duty arises, an employer cannot justify a failure to make a reasonable adjustment. It does not matter if a disabled person cannot point to an actual non-disabled person compared with whom he or she is at a substantial disadvantage. The fact that a non-disabled person, or even another disabled person, would not be substantially disadvantaged by the provision, criterion or practice or by the physical feature in question is irrelevant. The duty is owed specifically to the individual disabled person.

It is sensible for employers to avoid discrimination by focusing on meeting the needs of each employee and job applicant, rather than on trying to determine who falls within the statutory definition of disability. However, the extent of the duty to make reasonable adjustments depends on the employment circumstances of the disabled person in question. For example, more extensive duties are owed to employees than to people who are just thinking about applying for a job; more extensive duties are also owed to current employees than to former employees; the extent to which employers have knowledge of relevant circumstances is also a factor.

What adjustments might an employer have to make?

The Act gives examples of adjustments, or 'steps', that employers may have to take, if it is reasonable for them to have to do so. Any necessary adjustment(s) should be made as soon as possible. It may be necessary for an employer to make a combination of adjustments. It is advisable to agree any proposed adjustments with the disabled person concerned before these are made.

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Adjustments suggested by the Act (which are by no means exhaustive and will, in reality, depend on the individual circumstances of the person involved) include:

- making adjustments to premises
- allocating some of the disabled person's duties to another person
- transferring the person to fill an existing vacancy
- altering the person's hours of working or training
- assigning the person to a different place of work or training
- allowing the person to be absent during working or training hours for rehabilitation, assessment or treatment
- giving, or arranging for, training or mentoring (whether for the disabled person or any other person)
- acquiring or modifying equipment
- modifying instructions or reference manuals
- modifying procedures for testing or assessment
- providing a reader or interpreter
- providing supervision or other support.

Other adjustments, which are not suggested in the Act but are in the Code of Practice, include:

- conducting a proper assessment of what reasonable adjustments may be required
- allowing flexible working hours
- allowing a disabled employee to take a period of disability leave
- participating in supported employment schemes, such as WORKSTEP
- employing a support worker to assist a disabled employee
- modifying disciplinary or grievance procedures
- adjusting redundancy selection criteria
- modifying performance-related pay arrangements.

In some cases reasonable adjustments will not work without the cooperation of other employees. Subject to considerations about confidentiality, employers must ensure that other employees support the reasonable adjustment being carried

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out in practice. It is unlikely to be a valid defence to claim under the Act that staff were obstructive or unhelpful when the employer tried to make reasonable adjustments. An employer would at least need to be able to show that he or she took such behaviour seriously and dealt with it appropriately. Employers will be more likely to be able to do this if they have good disability policies and practices in operation.

When is it 'reasonable' for an employer to have to make adjustments?

Where a disabled person is placed at a substantial disadvantage by arrangements made by an employer or by a physical feature of premises where work or other work-related activities takes place, the employer must consider whether any reasonable adjustments can be made to overcome that disadvantage.

If the disabled person suggests what adjustments could be made, the employer must consider whether such adjustments would help overcome the disadvantage, and whether these are reasonable.

The Act does not permit an employer to justify a failure to comply with a duty to make a reasonable adjustment. However, an employer will only breach this duty if the adjustment in question is one that it is reasonable for him or her to have to make. So, where the duty applies, it is the question of 'reasonableness' that alone determines whether the adjustment has to be made. Where it is judged to be reasonable, the employer has a duty to make that adjustment.

The Act lists a number of factors that may, in particular, have a bearing on whether it is reasonable for an employer to make an adjustment. These make a useful checklist.

First, **effectiveness and practicability**: effective and practicable adjustments often involve little or no cost or disruption and are therefore very likely to be reasonable for an employer to make.

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Second, **how effective will the adjustment be in preventing the disadvantage for the disabled person?**

- Will this adjustment be more effective in combination with other adjustments?
- How practicable is the adjustment? It will be more reasonable to expect the employer to take an easy step, but sometimes more difficult steps will have to be taken if these will be more effective.

Third, **financial and other costs of the adjustment**, together with the extent of any disruption caused.

- If an adjustment costs little or nothing and is not disruptive, it would be reasonable unless some other factor (such as practicability or effectiveness) made it unreasonable.
- It is more likely to be reasonable for an employer with substantial financial resources to have to make an adjustment with a significant cost, than for an employer with fewer resources. However, even if an adjustment has a significant cost associated with it, it may still be cost-effective in overall terms and so may be a reasonable adjustment to make.
- A disabled person is not expected to contribute to the cost of a reasonable adjustment. However, if the person has a particular piece of special or adapted equipment that he or she is prepared to use for work, this might make it reasonable for the employer to have to take some other step (as well as allowing the use of equipment).
- The costs to be taken into account include those for staff (including the value of the employee's experience, expertise, knowledge, skill and salary levels, length of service, and the amount already invested in that employee) and other resources (including what the employer might otherwise spend in the circumstances, the availability of external funding such as through the Access to Work scheme).
- An adjustment which only causes minor inconvenience to other employees or the employer is likely to be more

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reasonable than one which might unavoidably prevent other employees from doing their jobs, or cause other significant disruption to the employer.

[link to 3.21](#)

If making an adjustment would increase the risk to the health and safety of any person (including the disabled person) then that is a relevant factor in deciding 'reasonableness'. Suitable and sufficient risk assessments should be used to determine whether such risks are likely to arise (see the section on [Health and safety considerations](#)).

[link to 3.34](#)

Many adjustments don't involve physical changes to premises. However, where such changes are necessary, employers may need to take account of other considerations (see the section on [Physical changes to premises](#)).

Although the Act doesn't mention other factors, depending on circumstances, some may be relevant including:

- the effect on other employees
- the effect on adjustments made for other disabled employees
- the extent to which the disabled person is willing to cooperate.

Local authorities must take account of s.7 of the Local Government Act 1989 and must appoint all staff on merit. However, this has been amended to make it clear that it is subject to the duties owed by employers to employees and prospective employees under the DDA. This means that employment decisions made by local authorities must take reasonable adjustments into account.

What other forms of occupation are covered by the Act?

Contract workers

Contract workers, people who carry out work for a person ('a principal') under a contract made with their employer, which is usually an employment business, are covered by the Act.

Definitions and explanations relating to disability and discrimination

Both the employer and the principal have duties. It is unlawful for either of them to discriminate against a disabled contract worker:

- in the terms on which they are allowed to do contract work
- by not allowing them to do, or continue to do, contract work
- in the way it affords them access to, or by failing to afford them access to, benefits in relation to contract work, or
- by subjecting them to any other detriment.

As with employers in general, the main forms of discrimination are direct discrimination, failure to make reasonable adjustments and disability-related discrimination.

It is also unlawful to subject a contract worker to victimisation whether or not they are disabled.

It is also unlawful for employment services to:

- harass a disabled person
- discriminate against a disabled person after they no longer work for the employment service, for example by giving a biased reference
- publish discriminatory advertising
- encourage another person to discriminate against a disabled person.

Office holders

Office holders include directors, judges, chairs or members of non-departmental public bodies. Although they are not regarded as employees by law, the Act gives specific protection to these people if they are not otherwise protected under Part 2. This extends to applicants for such appointments and applies also to office holders appointed by, or on the recommendation of, the Government (including the devolved administrations for Scotland and Wales), or subject to its approval. Holders of political office are not protected.

Definitions and explanations relating to disability and discrimination

The Act makes it unlawful to discriminate against a disabled person:

- in the arrangements which are made to determine who should be offered an appointment; or in the case of an appointment made on the Government's recommendation or subject to its approval, in the arrangements made to determine who should be recommended or approved
- in the terms on which the appointment is offered; or, in the case of Government recommendation or approval, in making or refusing to make a recommendation, or in giving or refusing to give approval, or by refusing to offer him the appointment
- in the terms of the appointment
- in the opportunities which are afforded (or refused) for promotion, a transfer, training or receiving any other benefit
- by terminating the appointment, or
- by subjecting them to any other detriment in relation to that appointment.

In addition, it is unlawful to subject a disabled person to harassment if they are an office holder or are seeking or being considered for appointment. It is also unlawful to victimise such a person, whether they are disabled or not.

As far as benefits are concerned, this mirrors the position in respect of benefits to employees. As far as the duty to make reasonable adjustments is concerned, the duty relates to any provision, criterion or practice applied and to any physical feature of premises under the control of such as person where the functions of the office or post are performed.

Office holders are owed these duties by:

- the person with the power to make the appointment
- the person or body with power to recommend or approve the appointment

Definitions and explanations relating to disability and discrimination

- the person with power to determine the terms or working conditions of the appointment (including any benefit or physical feature), or
- the person with power to terminate the appointment.

Police officers

Not all police officers are regarded as employees in law. However, the Act gives the same rights as other employees and job applicants under Part 2 to:

- police officers and cadets
- special constables and small police forces such as the British Transport Police.

These rights are enforceable against the relevant chief officer of police or police authority (or the relevant chief constable in Scotland). In addition, the chief officer of police (or chief constable) is liable for the discriminatory acts of one police officer (or cadet) against another.

Partners in firms

The Act also gives a partner or applicant for partnership similar rights as those of an employee or job applicant against an employer. The same applies where people are proposing to form themselves into a partnership and a disabled person is a prospective partner. Limited liability partnerships are also covered.

It is unlawful for a firm, in relation to a position as a partner in the firm, to discriminate against a disabled person:

- in the arrangements it makes to determine who should be offered that position
- in the terms on which it offers them that position
- by refusing or deliberately omitting to offer them that position, or
- where the disabled person is already a partner in the firm, in the way it affords them access to any benefits, or by refusing

Definitions and explanations relating to disability and discrimination

or deliberately omitting to afford them access to them, or by expelling them from the partnership, or subjecting them to any other detriment.

It is also unlawful for a firm to subject a disabled person who is an existing or prospective partner to harassment or to victimise any existing or prospective partner, whether or not they are disabled. As far as benefits are concerned, this mirrors the position in respect of benefits to employees.

As far as the duty to make reasonable adjustments is concerned, the duty relates to any provision, criterion or practice applied and to any physical feature of premises occupied by the firm. Where a firm is required to make an adjustment in respect of a disabled partner or prospective partner, the cost of doing so is an expense of the firm. Provided that the disabled person is, or becomes, a partner in the firm they may be required to make a reasonable contribution towards this expense. Account should be taken of the proportion in which the disabled partner is entitled to share in the profits when assessing the reasonableness of this contribution.

Barristers and advocates

Barristers and pupils (including barristers who are permitted to practise from a set of chambers but who are not tenants) have rights under Part 2 that are similar to those of employees.

In England and Wales it is unlawful for a barrister or a barrister's clerk, in relation to any offer of a pupillage or tenancy, to discriminate against a disabled person:

- in the arrangements which are made to determine to whom it should be offered
- in respect of any terms on which it is offered, or
- by refusing or deliberately omitting to offer it to them.

In England and Wales, it is also unlawful for a barrister or barrister's clerk, in relation to a disabled pupil or tenant in the set of chambers in question, to discriminate against him:

Definitions and explanations relating to disability and discrimination

- in respect of any terms applicable to them as a pupil or tenant
- in the opportunities for training, or gaining experience, which are afforded or denied them
- in the benefits which are afforded or denied them
- by terminating their pupillage or by subjecting them to any pressure to leave the chambers, or
- by subjecting them to any other detriment.

It is also unlawful for a barrister or barrister's clerk to subject a disabled person who is a pupil or tenant in a set of chambers (or who has applied to be a pupil or tenant) to harassment, or to victimise such a person, whether or not they are disabled.

In Scotland, disabled pupils (and prospective pupils) have rights under Part 2 that are equivalent to those of their counterparts in England and Wales. It is unlawful for a Scottish advocate to:

- discriminate against a disabled pupil or to subject them to harassment
- victimise a pupil, whether or not they are disabled.

It is also unlawful to discriminate against a disabled person in relation to the giving, withholding or acceptance of instructions to a barrister or an advocate. It would therefore be unlawful for a solicitor to refuse to instruct a barrister or an advocate merely because they have a disability.

As far as the duty to make reasonable adjustments is concerned, the duty relates to any provision, criterion or practice applied and to any physical feature of premises occupied by a barrister or a barrister's clerk. The exception is that solicitors, although they have a duty not to discriminate in relation to giving, withholding or accepting instructions, are under no duty to make reasonable adjustments in relation to disabled barristers whom they instruct.

Definitions and explanations relating to disability and discrimination

In England and Wales, where a group of barristers practise together in a set of chambers, the duty to make a reasonable adjustment applies to each individual barrister who has responsibility for any disadvantage to the disabled person if the adjustment is not made. Chambers need to consider whether their practices could disadvantage disabled pupils and tenant barristers.

In Scotland the duty is more restricted. Whilst disabled pupils and prospective pupils have rights equivalent to those of their counterparts in England and Wales, the extent of the reasonableness of adjustments will be affected by working in advocates' homes.

Practical work experience

A work placement is practical work experience undertaken for a limited period for the purposes of a person's vocational training. A placement provider is a person who provides the work experience to a person whom they do not employ. Discrimination in relation to practical work experience falls under Part 2 of the Act and is not subject to other provisions of the Act, such as those relating to the provision of goods (Part 3) and services or to education (Part 4).

Part 2 of the Act says that it is unlawful for a placement provider to discriminate against a disabled person who is seeking or undertaking a work placement:

- in the arrangements they make for determining who should be offered a work placement
- in the terms on which they afford them access to any work placement or any facilities concerned with such a placement
- by refusing or deliberately omitting to afford them such access
- by terminating their placement
- by subjecting them to any other detriment during the placement.

Definitions and explanations relating to disability and discrimination

It is also unlawful for the placement provider to subject a disabled person to harassment if they are providing a work placement for that person, or if that person has applied to them for a work placement, or to victimise such a person, whether or not they are disabled.

The duty to make reasonable adjustments, whether in respect of any provision, criterion or practice or any physical features of premises, applies to a placement provider in the same way as it does to an employer. It may also apply to the organisation sending a disabled person into a work placement.

It would be reasonable to expect the sending organisation and the placement provider, with input from the disabled person, to clarify responsibility for making reasonable adjustments and to cooperate to ensure that appropriate adjustments are identified and made. Taking account of the time limitation for most work experience placements, this should be done as quickly and efficiently as possible.

This might involve letting the disabled person visit the workplace in advance to see how his or her needs can be addressed or allowing the disabled person to use his or her own adapted equipment in the workplace.

Reasonableness will be judged in the same way as for employers, though the duration of the placement will be relevant. It is unlikely to be reasonable for a placement provider to spend significant sums on individually tailored adjustments in respect of short-term placements.

Nevertheless some disabled students may:

- be able to fund adjustments from their Disabled Students Allowance
- be prepared to use equipment they already own in the workplace, in which case the placement provider may have to make adjustments to accommodate this.

Definitions and explanations relating to disability and discrimination

Providers of employment services

Employment services are vocational guidance or training services, or services designed to assist people to find or keep jobs, or to establish themselves in occupation in a self-employed category.

If an employment service employs someone, which could either be as an employee or a contract worker, the usual Part 2 provisions described above will apply.

In addition, providers of employment services have duties as service providers under a modified version of Part 3 of the Act which can be seen in the relevant Code of Practice.

In summary, employment services should make changes to the way they deliver their services if these are difficult for disabled people to use, by making reasonable adjustments to practices, policies, procedures or premises, or by providing auxiliary aids and services. It is also unlawful for them to treat disabled people less favourably for a reason related to their disability.

What are reasonable adjustments?

In employment, reasonable adjustments are changes made to your working policies and practices and to the physical features of your premises, where these are substantially disadvantaging disabled people. For a comprehensive explanation of employers' duties to make reasonable adjustments [click here](#).

[link to 2.1](#)

In some circumstances, it will be appropriate to make some adjustments as a general response to the needs of all disabled people. For example, providing your employees with disability awareness training or taking accessibility into account when refurbishing.

In other circumstances, you will need to take account of individual needs. It's important not to make assumptions about what someone needs in the way of reasonable adjustments. Always ask the person, rather than trying to guess what reasonable adjustment would be most appropriate.

Adjustments are as individual as the people who need them and the circumstances in which they are used. Many examples are given throughout this guide.

As an employer, you have a duty to make reasonable adjustments as soon as you know that someone defined as disabled in the terms of the Disability Discrimination Act may need them. Not asking whether something is needed is no defence for not knowing, and it is your duty to take reasonable steps to find out whether adjustments are needed. The best approach is to build this into all your employment policies and practices at recruitment and within regular line management processes.

The following examples of reasonable adjustments suggest the range of disabilities and health conditions your employees may have, the effect these might have in the workplace and possible ways of managing them.

- **An adjustment might be needed to a person's place of work.** For example, if a person with epilepsy were in danger of being affected by sunlight flashing through the blades of a revolving extractor fan, it would be a reasonable adjustment to move their workstation to another place where that couldn't happen.
- **A reasonable adjustment may be needed so that an employee can carry out duties to the employer's usual standard.** For example, a person with arthritis in his fingers finds it difficult to fully pull a lever on a plastic extrusion machine. Because of this he has a high rejection rate for the objects he is making. It would be a reasonable adjustment for the employer to, say, fit longer or wider handles to improve the employee's effectiveness. However, it would not be reasonable to expect the employer to lower his manufacturing standards.
- **It may be a reasonable adjustment to provide a mechanical way of doing a previously manual job if an employee is no longer able to do it because of a disability or health condition.** For example, a road sweeper who can no longer walk or who has a heart condition may still be able to work effectively using a sit-on mechanical road sweeper.
- **Flexible working patterns may be a reasonable adjustment for someone with a progressive or fluctuating condition.** For example, if a woman with Parkinson's disease has new medication she may be affected by drowsiness, it could be reasonable to allow her to change her working hours, either temporarily or permanently.

- **It would be a reasonable adjustment to modify manuals, so that someone with paralysis in her hands due to a stroke could easily use these.** For example, copying and putting the material into a loose-leaf binder would make it stay open and would make it easier to turn the pages.

Who can advise on reasonable adjustments?

Sometimes people know exactly what they need to manage their disability or health condition. However, many conditions develop while people are in work and they may not know about what is available to enable them to continue doing their job well. Sometimes, when people develop a disability or health condition, they struggle for a long time before saying that they need help – for fear of being disciplined or losing their job. Creating a culture where people can talk easily about health or disability can guard against this.

Help is available from a number of sources, for example:

- Disability employment advisers at your local job centre will be able to arrange assessments, can offer suggestions for adjustments and may be able to help with the cost of these ([click here](#) for more information about the Access to Work scheme).
- Disability organisations can usually provide information about adjustments and often offer consultancy services to employers (see the section on [Disability organisations](#) for a list of many of these).
- Occupational health specialists should be able to suggest adjustments to support employees in the workplace.

When reasonable adjustments have been identified and made, it will be up to the person with a disability or health condition, with input from his or her line manager, to decide whether these are effective. If problems arise with adjustments, don't make the person feel it is their fault. Work with the employee and specialists to look for solutions that meet individual needs.

[link to 4.1](#)

[link to 4.2](#)

However, as the person's employer or potential employer, it will be up to you alone to decide whether these adjustments are reasonable. Only you can decide whether, in all the circumstances of that particular case, it is reasonable for you to make the adjustment.

What is meant by reasonable?

You will be discriminating if you do not make an adjustment that is required by a disabled person. However, the duty is only to do what is reasonable. In certain circumstances, you may be able to refuse to make an adjustment because it is not reasonable to have to do so. Full details of this are given in

[link to 2.1](#)

[Definitions and explanations relating to disability and discrimination](#). What is reasonable will depend on factors such as:

- **Effectiveness and practicability** – however, many adjustments that are both effective and practicable are also simple and depend solely on a flexible approach, goodwill and creative thinking.
- **Financial and other costs** – however, whilst some adjustments may appear costly, it is worth noting the findings of recent research by the Department for Work and Pensions showing that of employers who had made adjustments, one in five had incurred no cost at all and only 4 per cent had incurred costs of over £10,000.
- **A genuine risk to health and safety** – this should never be compromised, either for the disabled person or other employees, but health and safety should also never be put forward as an excuse for discrimination (for more information see the section on [Health and safety considerations](#)).
- **Difficulties that relate to physical changes to premises** (see the section on [Physical changes to premises](#)).

[link to 3.21](#)

[link to 3.34](#)

The case for mainstreaming some reasonable adjustments

While it is vital to consider many reasonable adjustments in the context of the person concerned and the individual circumstances of the case, there are also adjustments that can be made as a matter of course as part of ordinary business development.

Taking a mainstreaming approach to disability will:

- Help you to anticipate adjustments that will be beneficial to many people, including those with disabilities and health conditions.
- Save money on retrofitting.
- Enhance your reputation as a forward thinking, disability-friendly and proactive organisation or business.
- Ensure consideration of disability becomes part of 'business as usual'.

Consideration of disability should be mainstreamed in relation to:

- Budgeting and planning within your organisation or business – this is the only way to sustain best practice.
- Contracts for new buildings or building alterations. While Part M of the Building Regulations deals with many access issues, it will be prudent to work to British Standard 8300:2001 to ensure that additional aspects are considered.
- Refurbishment of older buildings. Accessibility should be part of your rolling refurbishment programme.
- All outsourced contracts, for example for occupational health services, employment services, IT services, pensions and other benefits. These should explicitly address your expectations about disability and should include all employment benefits.
- Policy development – for example, those relating to terms and conditions of employment (see the section on [Developing policies and monitoring disability](#)).

Managing and recording reasonable adjustments

Reasonable adjustments must be managed and recorded. If you do not do this you will be putting yourself at risk of charges of discrimination because you will not be able to show:

- what steps you have taken in response to requests, or
- why adjustments aren't 'reasonable' in the terms of the Act.

A suggested procedure for managing and recording adjustments for individual employees is included in the section [Managing performance and disability](#).

[link to 3.27](#)

Miss Beart had worked for the Prison Service as a prison officer for 18 years, with an exemplary service record, when she was diagnosed with depression. The Prison Service failed to believe this and, while she was off work, dismissed her on the grounds of gross misconduct.

In October 2003 the Court of Appeal upheld the decision of the employment appeals tribunal (EAT) and the employment tribunal that the employer had unfairly dismissed her and discriminated against her on the grounds of disability.

Miss Beart was awarded £400,000, mainly in respect of loss of earnings, but also for damages and compensation for personal injury, injury to feelings and unfair dismissal.

Legal case – reasonableness and redeployment

In July 2004, the House of Lords ruled that the duty on employers to make reasonable adjustments for disabled people includes considering whether it is reasonable to transfer the disabled person to another vacant post, even if that post is at a higher grade.

Mrs Archibald was a road sweeper with Fife Council from 1997 until 2001. In 1999, complications following surgery caused severe pain in her heels, leaving her unable to walk. She initially used a wheelchair and later was able to walk only with sticks. She had previously worked as an administration assistant and went for retraining to update her skills. She had to undertake competitive interviews in accordance with the council's redeployment policy and applied unsuccessfully for over 100 posts within various departments.

In March 2001, the council dismissed her on the grounds of capability.

Mrs Archibald later successfully applied to Fife Council to become supervisor of a local community centre. Mrs Archibald complained that she had been discriminated against on grounds of disability. She argued she should not have had to compete for alternative employment if she could show she could perform the duties and responsibilities of the post and that her employers had failed to comply with a duty to make a reasonable adjustment under the Disability Discrimination Act. After a number of court cases and appeal, the House of Lords established that the duty of reasonable adjustment should apply in this way.

Mrs Newsome worked for the City of Sunderland for 26 years, reaching the position of senior finance and administrative officer. Computers were introduced in 1993 without workstation or ergonomic assessments being carried out. By 1995 Mrs Newsome had started to take time off work with arm, neck and back pains.

The council obtained advice from an occupational health physician, a disability employment adviser and a physiotherapist. Various changes to the layout of Mrs Newsome's equipment and workstation were recommended. However, it took a long time for the advice to come through and for the equipment to be ordered. In addition, a protocol was drawn up, supposedly to enable her to manage her workload – however this only allowed her to complain if she felt timescales or workloads were unreasonable.

When Mrs Newsome's entitlement to sick pay ran out, she accepted ill health retirement but then made a complaint to the employment tribunal of disability discrimination.

The tribunal found that work should have been routed through her line manager to alleviate pressure to meet deadlines. It also held that her job description contained functions she could have given up or had help with.

The tribunal awarded Mrs Newsome a total of £284,455 for past and future loss of earnings and pension and injury to feelings.

Best practice in recruitment means finding the best person for the job. This means taking care with all the arrangements you make so that you don't miss the potential offered by people with disabilities and health conditions.

Because we all come in different packages, it is not always easy to know who the best person for a particular job is. First impressions, and the assumptions you make when meeting someone new, can lead you to reject some people without taking the time to get to know what their real value might be. Following best practice will allow you to look beyond someone's disability or health condition and accurately recognise the potential of everyone who wants to work for you.

The principles of best practice in recruitment also apply to other opportunities in employment, for example in training and career development, and should be taken into account in any selection process.

Following a best practice approach to recruitment and selection for existing and potential employees will bring benefits – but the bottom line is that it is also a legal requirement. Failure to do so could result in costly litigation and bad publicity.

The DDA makes it unlawful for you to discriminate for reasons related to disability:

- as a result of the arrangements you make for deciding who should be recruited or promoted
- because of the physical features of your premises.

So, to avoid discrimination you must assess all applicants on their individual merits.

- There is no requirement for you to treat someone with a disability or health condition more favourably than you would treat other candidates, except that you must make reasonable adjustments for disabled individuals if these are needed.
- You should take account of the person's merits, as these would be if any reasonable adjustments needed under the Act had been made.
- You do not have to employ the disabled person if, after allowing for those adjustments, he or she would not be the best applicant for the job.

In the past, many businesses have recruited or made other selection choices in informal ways, relying on word of mouth and personal preferences when making decisions about new employees.

Duties under the DDA and other equalities legislation make this a very dangerous practice that can easily lead to discrimination. While a more structured approach may, at first, seem more time consuming or less flexible it will provide:

- a means of making decisions based on real business need
- useful evidence of intent should you be challenged under the Act.

Centrica

From 1998 to 2002 Centrica worked in partnership with Carers UK, the Employers' Forum on Disability and Jobcentre Plus on a recruitment initiative to create new employment opportunities for family carers and disabled people.

Through the project-led Recruitment Initiative, a model and a process has been developed that has resulted in over 180 people being recruited, 45 per cent of whom are people with a disability or health condition. Centrica has benefited from a pool of highly skilled and motivated new employees that it otherwise would not have attracted.

Centrica has since built on this initiative to develop a wider employment programme to attract people from a broader range of backgrounds, including people with learning disabilities. Working with organisations including Mencap and the RNIB they have developed a programme that provides extensive induction and orientation training for all new employees, together with ongoing development training. They also offer additional work preparation and interview training before inviting candidates from specific backgrounds for interviews.

The Employers' Forum on Disability publishes a range of excellent materials on the full range of employment issues. One of these is a guide based on the Centrica initiative, called 'Recruitment that works'. It is available from their publications department, telephone 020 7403 3020 or online [click here](#).

link to

www.employers-forum.co.uk/www/guests/publications/pub12.htm

BT

Able to Work is an exciting initiative to increase the number of disabled people employed in BT contact centres. It will soon be rolled out to the finance and engineering departments. BT is working in partnership with their agency suppliers to remove barriers and directly communicate with people with disabilities and health conditions about vacancies.

For BT, the business reasons for doing this were clear:

- They were able to explore a previously untapped labour market.
- Generally, the people recruited this way have been highly motivated, with good attendance and performance results.
- Their workforce is more actively reflecting the diverse nature of society.

To support this BT has:

- Developed training in the form of a module called 'Valuing Ability', which is available for everyone in the contact centres, and a Disability Awareness seminar attended by trainers and line managers, which has helped to raise awareness and understanding of disability issues and to ensure that everyone is supportive of Able to Work.
- Taken great care to ensure that it meets individual needs by developing an initial risk assessment process and conducting site visits to ensure accessibility.

An advisor in Warrington sums up BT's success: 'I had been unemployed for over 16 years through a chronic heart condition and diabetes. Having managed to control my medical problems, I was referred to Remploy and with their advice got a job with BT, through the agency Hays.

'BT and Hays have bent over backwards to allow me to work in relative comfort. My bay is being adjusted and a special chair has been provided to aid my seating requirements. Such help to get a disabled person back to work and to adjust to our

needs will result in unwavering loyalty and long service, which will more than reward them for their expense and understanding.

'I had resigned myself to the fact that I would never work again but a chat with Remploy and the offer of a job from a company that is prepared to go that extra mile gave me my dignity and self respect back.'

Marks and Spencer

Marks & Start is Marks and Spencer's flagship community programme. It gives the opportunity of work experience to people of different ages and walks of life, helping them to get ready to access the world of work. It will help over 2,500 people each year, many of whom face barriers getting a job. These include people with disabilities and health conditions.

Marks & Start is one of the biggest employability schemes any company has undertaken and is centred around partnerships with a number of organisations including DisabledGo.

Marks & Start's objectives are to:

- raise the aspirations of participants and give them the confidence to enter the workplace
- develop employee skills
- identify new sources of employment.

Nigel Wren is a sales adviser in Bristol. He has learning disabilities. Nigel found out about the work placement scheme after the company he had worked in for 15 years went bankrupt. He says of the Marks & Start programme: 'During my placement I was backstage in store operations. I worked on the bailer, loaded skips, helped with new deliveries and equipment and stocked the warehouse. I enjoyed it – I like to work; it's nice to have something to get up for, and I have made friends here. On the work placement scheme someone in the store acts as a buddy to support you. This helped me a lot. I am shy and nervous in new surroundings and my buddy helped me gain confidence while I learned new tasks. I think I have done very well and am pleased to be in work.'

Contour Showers Limited

David Tickle works full-time at Contour Showers Limited in Winsford, Cheshire. He works on the factory floor and his duties include housekeeping around the factory and some basic light assembly responsibilities. David joined the company through the WORKSTEP programme, which is funded by Jobcentre Plus and supports clients with a disability into work. In Cheshire, David's programme is run by Scope's Employment Support Services.

David's disability employment adviser, based at his local job centre, introduced him to the programme. The Scope employment adviser then worked with David to draw up a personal development plan to help his move into paid employment. Together, Scope and Contour Showers Limited take a partnership approach to support David.

Over his time at Contour Showers, David's confidence has increased and his manager reports his work attitude as being as good, if not better, than that of others. Scope reports that David is valued at work and that his work colleagues have been extremely supportive – going out of their way to help him with work, personal needs and in social situations. When David won first prize in a staff raffle, an all expenses paid trip to Disneyland in Florida, he chose to take a work colleague with him as his companion. David says: 'Working at Contour Showers is great – everyone is my friend.'

Last year, Contour Showers Limited were one of the winners in the Cheshire County Council Welfare to Work partnership's Positive Awards for Businesses scheme, in the Supportive Colleagues category. This year they are nominated for two categories. Scope's service manager says: 'We have a great professional partnership with Contour Showers and the three-way support for David from his supervisor, his employer and our employment officer has been outstanding and displays a real commitment to the employment of disabled people.'

Using person specifications and job descriptions

A person specification sets out the criteria needed to do a particular job. Using a person specification will help to cut down reliance on irrelevant and potentially discriminatory criteria in the selection process.

An employer stipulates that employees must be 'active and energetic', when the job is a sedentary one. This requirement is both irrelevant and potentially discriminatory. It could unjustifiably exclude some people whose disabilities result, for example, in them getting more tired than others, or those who are less mobile.

Person specifications should be based on a current job description for that job, which is usually an explanation of how the jobholder fits into the organisation or business, together with a breakdown of experience and skills needed for the job. The job description should also be examined and amended so that potential discriminatory criteria are avoided.

Both the person specification and the job description should be reviewed each time they are used to make sure they are still relevant.

A person specification is likely to include skills, abilities, experience, knowledge, competence and behavioural attributes. All should be unambiguously and specifically defined – for example, only asking for a particular length of experience and level of competence if these are essential requirements for the job.

No blanket requirements or exclusions relating to health or disability should be included and qualifications should only be requested where there is a genuine occupational requirement – for example a driving license for a bus driver – and there is no other way to meet the criteria.

Using person specifications and job descriptions

An employer excludes people with epilepsy from all driving jobs. One of the jobs, in practice, only requires a standard licence and standard insurance cover. If, as a result, someone with epilepsy, who has both a standard licence and insurance cover, is turned down for the job, the employer will have discriminated unlawfully in excluding him or her from consideration. In general, blanket bans are likely to be illegal.

You must be able to justify the criteria you use if these may put someone defined as disabled by the Disability Discrimination Act at a substantial disadvantage when compared to another person. Do not be too specific about how a task should be done. Instead focus on what the outcome needs to be.

A job is advertised stating that the successful applicant should have a full driving licence. The job involves visiting people in the local area. Asking for a full driving licence could deter disabled people from applying when they could be capable of doing the job even though they could not drive, for example by using public transport. Therefore this would be discriminatory. Stating instead that 'applicants must be willing to travel' would still indicate that this is a requirement for the job. However, this does not specify how this should be done and therefore will not exclude people who cannot drive because of their disability.

Criteria should be ranked to show order of importance and essential and minor requirements should be clearly distinguished. Minor requirements are difficult to justify and may be a source of discrimination. Separating essential and minor tasks will help you to think about what aspects of the job could be reassigned to another person if that was a reasonable adjustment for a disabled person.

The essential skills for a clerical assistant's job might include communicating with customers, data input and filing. However, a minor task such as posting letters could be done by anyone and could be reassigned if necessary.

Using person specifications and job descriptions

Wherever requests relating to a person's characteristics, whether personal, medical or health-related, are stated as being essential or desirable, these must be genuinely necessary for the performance of the job. If not, it will be reasonable to waive these in individual cases.

Developing a person specification

Use the job description to identify what the jobholder must be able to do to carry out the role. Take account of the following, but take care not to include criteria that could be discriminatory:

- **Skills and abilities** – specify and quantify skill areas and levels of competence for each of these.
- **Knowledge** – specify what areas of knowledge or understanding are necessary and to what level.
- **Experience** – specify what the jobholder must have done, in what conditions and for what length of time.
- **Behavioural attributes** – specify the characteristics you are looking for.

Rank these in order of importance and identify which are essential and which are minor requirements.

Job title:	Date:	
What must the jobholder be able to do?	Rank order of importance	Is this a minor or an essential requirement?

Selection criteria must not discriminate against disabled people. These must be necessary to the job and must not place people with a disability or long-term health condition at a disadvantage in the selection process. The same selection criteria should be used for shortlisting and during the interview.

When you know that the applicant is a disabled person:

- You must take account of how reasonable adjustments could enable the disabled person to meet the requirements of the person specification.
- Assess whether or not the person meets, or would meet, your criteria with these reasonable adjustments in place.
- Be flexible when thinking about how these criteria can be met by a disabled person – the question is can they be met, not how.

In particular, look at how some frequently used criteria may discriminate and how it would be possible to make adjustments that would enable a disabled person to work just as effectively as anyone else.

A full driving licence is often a standard requirement – is it really necessary? Does the person doing the job really need to be a driver, or can the job be done using public transport or a personal driver?

Asking for experience of a particular type of computer software can exclude people. Many people use adapted technology with its own software. This might have a different name but usually does the same job, so rejecting a disabled person on that criteria could be discriminatory.

Asking for an 'attractive' person for a customer-facing job is likely to be discriminatory – and which is likely to be more 'attractive' to customers, a pretty face or a helpful and cheerful personality? Rejection of a person with a facial disfigurement would be discriminatory if it was on the basis of not fitting your criteria for what is 'attractive'.

Making a decision based on a person's sickness record can discriminate unfairly. For example, some people may have taken more sick leave at the onset of a disability or health condition, then settled down to having no more sick leave than other employees as this stabilised. It is important not to use sick leave, which may be related to disability, as a means of selection. Best practice will be to distinguish between sick leave and disability-related absences in your employees' personal records and then to discount disability-related absences when making employment-related decisions.

Making a decision based on an assumption about all people with a particular condition.

An employer stipulates that applicants for a job must not have a history of mental illness, believing that they will have poor work attendance. The employer rejects an applicant solely because he has had a mental illness, without checking the person's attendance record. This will amount to unlawful discrimination.

Asking about a person's health. Questions about health are allowed under the Disability Discrimination Act but it will be best practice to make sure that questions about health are valid criteria for the particular job in question and only to ask such questions when a job offer has been made. If you do decide to ask health-related questions during the interview, you must ask the same question of all applicants and you may still have to justify this if a disabled person is rejected because of health requirements.

An applicant has a heart condition. The employer routinely issues a health questionnaire to job applicants and requires all applicants who state they have a disability to undergo a medical examination. This procedure is only likely to be justified where assessment of the disabling heart condition might have implications for the particular job, for example if the job required lifting and carrying.

Asking for qualifications that are not relevant or significant in terms of a particular job. If a disabled person does not have this qualification, for example because he or she attended a special school where the opportunity to get the qualification was not available but they nevertheless have equivalent competence derived from work or life experiences, it would be reasonable to waive this requirement.

An employer prefers all employees to have a certain level of educational qualifications. A woman who has attended a special school and, therefore, has not had the opportunity to get the preferred qualification, is turned down for a job because she does not have that qualification. If the qualification is not necessary in order to do the job and she is otherwise the best candidate, then the employer will have discriminated unlawfully against her.

Will disabled people see your advertisement?

You should consider how disabled people will know about your advertisements and how they will be able to find out more about your vacancies. Remember to think about all aspects of your recruitment advertising, not just those in the press.

For example, internally, if you pin details onto notice boards, these should be pinned at a height where they can be seen by wheelchair users and people of less than average height.

All advertisements should be easy to read – free of jargon and in clear type.

If you produce an information pack for those interested in the vacancy, can you also produce this in large print or floppy disc format for someone with a visual impairment? You must be able to do this within a reasonable timescale, certainly well within any closing date so the person is not placed at a substantial disadvantage to other applicants. See the section on [Accessible communication](#).

[link to 3.33](#)

If you advertise in an internal newsletter you should be aware that this information may also need to be made available in accessible formats for people inside and, where appropriate, outside the organisation.

Making the content of your advertisements accessible and appealing to disabled people

You must not discriminate in the wording of your advertisements by suggesting that:

- disabled people will not be successful applicants
- you are not willing to make reasonable adjustments, except where you can justify taking into account the effect of the disability because of the nature of the job in question – for example, a bicycle courier needs to be able to ride a bike.

It is important to understand that any form of letting people know about a vacancy counts as an advertisement under the Act, whether internal or public, including postings on notice boards and informally telling others about vacancies by word of mouth.

A best practice approach to recruitment advertising would be to include a welcoming and encouraging statement in your advertisements. This is a public statement of policy and intent. It also lets potential applicants know that you will be able to understand and meet their needs. However, it must be backed up with best practice in all aspects of employment, otherwise you will only be paying lip-service to disability equality and will risk charges of discrimination.

'We welcome enquiries from everyone and value diversity in our workforce'

'We are willing to consider flexible working arrangements'

'We are able to meet our legal responsibilities under the Disability Discrimination Act'

You may want to include the Jobcentre Plus 'two ticks symbol' ([click here](#)), if you have signed up to this.

Include references to relevant policies – for example, if you have a guaranteed interview scheme where you interview all disabled applicants who meet your selection criteria.

Consider what you are asking for in the advertisement. Refer to the section on [Developing a person specification](#) to make sure you are not discriminating or inadvertently discouraging somebody who might well be the best person for the job.

[link to 4.1 page 6](#)
(logo in margin)

[link to 3.4](#)

Think about where you place your advertisement. Will it reach disabled people and the specialist referral agencies who help them into employment? Consider using non-standard advertising such as Post Office notice boards, specialist publications read by lots of disabled people, through the disability employment advisers at your local job centre or placing advertisements on the Internet. Other suggestions are given in the section on [Making contact with disabled people](#).

[link to 3.7](#)

Recruitment advertising on the Internet

People with disabilities and health conditions use a wide range of specialist hardware and software to access computers and the Internet. Theoretically, electronic advances should make information and employment more accessible to disabled people. However, research suggests that 1.3 million disabled people in the UK are excluded by inaccessible and badly designed e-recruitment websites.

It is important that websites are designed to comply with good practice for accessibility and usability. Some features that have been commonly used when building websites cause problems for people with disabilities. There are accessible alternatives available, which should help to avoid charges of discrimination. For example, a text-only format should always be provided as an alternative for people using screen readers, which 'read' text and convert it to speech output for people with visual impairments. This is a common type of adaptive technology. Screen readers cannot work where information is presented in a graphic format.

Likewise, each image should have an <ALT> tag in the form of ALT='description' and text descriptions for each link so that people using screen readers can navigate around the site.

Attention should be given to other design issues, such as the use of colour contrasts so that people with colour blindness can easily use the site, avoiding the use of small areas for links which make it difficult for people with restricted manual

dexterity to navigate, and the provision of mouse-free navigation – again to ease navigation for people who find it difficult to make fine adjustments to their movements.

In addition, when advertising your recruitment vacancies on the Internet, wherever possible you should include the same information as with other types of advertising, including references to policy such as the guaranteed interview scheme, where this is applicable.

Information and advice about website accessibility are available from a number of sources.

- The DRC have published a report entitled 'The Web: Access and inclusion for disabled people'. This can be downloaded from the DRC website [click here](#).
- The Employers' Forum on Disability has produced a demonstration website showing best practice in e-recruitment [click here](#).
- A comprehensive explanation of online accessibility and usability, which will also be of interest if you advertise to customers on the Internet, is available [click here](#).
- RNIB's online Web Access Centre can provide more information on designing and evaluating websites.
Telephone: 020 7391 2178
Email: webaccess@rnib.org.uk
Website: [click here](#).

www.drc-gb.org/publicationsandreports/theweb1.rtf

www.barrierfree-recruitment.com

www.w3.org/Talks/WAI-Intro/

www.rnib.org.uk

Although a large proportion of people with disabilities and long-term health conditions are not currently in the job market, many would like to work. However, they may not come into contact with employers through the usual channels. For example:

- Many disabled people are in receipt of long-term benefits that do not require them to sign on and they do not visit job centres to see what employment is on offer.
- Some disabled people, based on previous personal experience, feel they will not be offered the opportunity to enter or return to work, or that they don't have the capacity to do so and have given up trying.

You can take positive steps to encourage people with a disability or health condition to come and work for you and there are a number of ways to make contact with them.

Government agencies

Disability employment advisers (DEAs) at local job centres are important contacts for many out of work disabled people. They are also contacts for the Access to Work scheme, which can provide resources to people with a disability or health condition to start and stay in employment, as well as being sources of other types of referral, advice and information relating to employment. (For more information on the Employment Service provisions such as WORKSTEP, the Job Introduction Scheme and New Deal for Disabled People, [click here](#).) Website: www.jobcentreplus.gov.uk

[link to 4.1](#)

An employer has a number of vacancies and knows that disabled people are under-represented in its workforce. It contacts Jobcentre Plus and arranges an open morning for local disabled people to find out more about working for it.

Specialist advisers at your local careers service are key contacts for entry-level applicants. Refer to your local telephone directory for contact details.

Specialist disability employment organisations and agencies

Remploy Interwork provides services for employers who want to recruit and retain disabled employees.

Telephone: 08458 452 211 Textphone: 08456 009 228

Email: interwork.osc@remploy.co.uk

Website: www.remploy.co.uk

The **Shaw Trust** is a national charity that provides support to disabled jobseekers.

Telephone: 01255 716 350 Fax: 01255 716 334

Textphone: 08457 697 288

Email: stir@shaw-trust.org.uk

The Association for Supported Employment Agencies (AfSE)

should be able to give you contacts for local supported employment agencies. Contact them by email at: admin@afse.org.uk

Employment Opportunities can help employers to make contact with professional disabled people.

Telephone: 020 7448 5420

Website: www.opportunities.org.uk

You may have **local initiatives** in your area. For example, **Breakthrough UK** operates in Manchester and Liverpool, offering support to employers who are recruiting a disabled person or have an existing member of staff who is disabled and needs support. Contact them in Liverpool by:

Telephone (voice and Minicom): 0151 707 7856

Textphone: 0151 707 7861

Fax: 0151 707 7857

E-mail: reception@breakthroughliverpool.fsnet.co.uk

Website: www.breakthrough-uk.com/lest_employers.shtml

Specialist e-recruitment agencies

Two websites that link disabled people with employers:

- **Jobability.com** is an application site for disabled people and employers seeking to recruit disabled people.
Website: www.jobability.com
- **Workable** works in partnership with employers to support disabled achievers in developing careers that reflect their abilities. Website: www.workableuk.org

Specialist disability publications

Specialist publications run job advertisements:

- **Disability Now** is a monthly newsletter aimed at all disabled people. It carries job advertisements in both its online and print formats.
Telephone: 020 7619 7323
Website: www.disabilitynow.org.uk
- **New Beacon** is a monthly magazine published by the Royal National Institute for the Blind (RNIB).
Telephone: 020 7878 2307
Website: www.rnib.org.uk/xpedio/groups/public/documents/PublicWebsite/public_newbeacon.hcsp
- **Newsletters of local disability organisations** may also run job advertisements. You might also consider submitting an article about how your organisation or business is working towards disability equality. This will have the added advantage of raising your profile as a disability-friendly place to approach for jobseekers.

Offering work experience placements to disabled people

Particularly in the past, many people with a disability or health condition often didn't have the same life chances as non-disabled people. They may not have had the opportunity to do work experience during their final year at school or college, for example. Other people who have acquired a health condition

and become unemployed might also benefit from work experience. It can give them a chance to build their confidence and capacity for work and to try out new roles if a former career is now closed to them.

For employers, offering work experience means that you get a chance to 'try out' the person without committing yourself to employing them permanently. A number of schemes provide this opportunity.

Local schools and colleges usually organise work experience for final year students. You could contact the careers teachers at your local schools and colleges.

Your local social services department may run a work experience programme for people with disabilities. You can find their contact details in the telephone directory.

Many disability organisations offer schemes, sometimes in conjunction with larger organisations. A list of national disability organisations is given in the section on [Disability organisations](#). Keep an eye on your local press for details of local initiatives.

[link to 4.2](#)

Recruiting contract workers through employment services

Recruitment through employment services, such as recruitment agencies that provide contract workers, is subject to the same duties as direct employment by an employer.

This applies to:

- traditional face-to-face type recruitment and to e-recruitment on the Internet
- other types of employment services, such as vocational guidance, training or other services designed to help people to find or keep jobs
- providers of employment services and to employers who use them.

[link to 2.1](#)

Details are given in section 2.1 [click here](#). This means that you will be liable for the actions of employment services working for you unless you can show that the action was taken without your authority and that you had taken reasonable steps to prevent it happening – for example, that you had notified the agency of your policy and expectations.

A recruitment consultant engaged by an engineering company refuses to consider a disabled applicant for a vacancy, because the company has told the consultant that it does not want the post filled by someone who is 'handicapped'. Under the Disability Discrimination Act (DDA), the consultant could be liable for aiding the company to discriminate, in addition to the company's own liability for the unlawful act.

In the case of contract workers, they generally work as employees for an employment service. They are hired out to another person (the employer) under contract. This arrangement also applies to initiatives to help get disabled people into work, such as the WORKSTEP scheme operated by Jobcentre Plus for people facing very significant barriers to employment because of disability or health issues.

Recruiting contract workers through employment services

Where the contract worker is a disabled person as defined by the DDA, both the employment service and the employer may be separately under a duty to make reasonable adjustments if they are substantially disadvantaged by any arrangements resulting from the physical features of premises.

Where the contract worker is likely to meet a substantial disadvantage in lots of different workplaces, it will be the employment service's duty to make reasonable adjustments to overcome this disadvantage, rather than on individual employers.

However, the employment service does not have to make any adjustment that should be made by the employer as a result of difficulties caused by its arrangements or premises.

The employer also has a duty to cooperate with reasonable adjustments made by the employment service. When deciding reasonableness the service and the employer will need to consider what adjustments would be appropriate and who should be responsible for making these.

Where the contract worker is likely to meet a substantial disadvantage in a particular workplace, the period for which the disabled person will work for the employer may need to be taken into consideration in deciding what is reasonable.

You should take particular care to ensure that you are not discriminating against disabled people in the way that you deal with applications.

Application forms should be reviewed to ensure that they can be made available in alternative formats. Required formats will depend on an individual's needs, personal preferences and access to technology and may include large print, audio tape, email, Braille, floppy disk or CD (see the section on [link to 3.33](#) [Accessible communication](#)).

Forms should be well designed, with clear print, a strong typeface and layout that gives enough space for completion. Avoid using colours and design features that reduce the definition of the print.

Make sure that required formats for applications don't prevent disabled people from applying. For example, stipulating that applications can only be considered in handwriting would discriminate against a person who is unable to write legibly but who could instead apply verbally on audio tape, type an application or complete a form electronically. Alternative format applications should ask for the same information as standard format applications.

Application forms should not ask for unnecessary information that could put a disabled person at a disadvantage. For example, remove questions about having a full driving licence or about health conditions, unless these are very specifically relevant to the job, as identified in the person specification.

Make sure an opportunity is given for applicants to tell you about alternatives to work-related experience as some disabled people may have been unable to follow traditional career paths. Examples might include experience gained in a voluntary capacity, in unpaid work or through life experiences.

Ensuring your application process is accessible

Give applicants the chance to tell you – through a standard question included on the application form – whether they require any special provision or facility at the interview. Sharing this information at an early stage should help to reassure the disabled person and will help you to meet your duties under the Act. This information must never be used as part of the selection process, unless you operate a guaranteed interview scheme. A suggested wording is given in the box:

People with a disability or a health condition are entitled in law to 'reasonable adjustments' during the recruitment process. We are interested in any disability or health condition that may require such a reasonable adjustment. Guidance on this is given on the base of this form.

Do you consider yourself to have a disability or a health condition?

Yes No

What adjustments do you require in order to attend interview?

Do you have a physical or mental impairment or long-term health condition? Is this expected to last, or has it lasted, for a year or longer? Does this make it difficult for you to do the things that most people do on a fairly regular and frequent basis? If so, you may have rights under the Disability Discrimination Act. This includes people who are receiving treatment to alleviate the effects of an impairment or a condition, people with an impairment or condition that is likely to recur, people who have conditions that will get worse over time and people with severe disfigurements.

Information accompanying application forms must also be available in alternative formats if requested. It is best practice to include a statement in standard formats. A suggested wording is given in the box:

Ensuring your application process is accessible

This information is also available in alternative formats. Please contact (give the contact name, telephone number and email address and, if possible, fax and textphone number, of a particular person who has been briefed on what is required) to request your preferred format.

Everyone in the shortlisting process should understand the benefits of making reasonable adjustments and the legal requirement to do so. They should understand that applications from disabled people must be treated fairly, whether these are submitted in standard or alternative formats.

A job applicant discloses on his application form that he had long-term clinical depression and was off work for two years after his father died. It would be discrimination to refuse to interview or recruit him just because he had had a long-term depressive illness.

An applicant sends a typewritten letter of application because, following a stroke, she has difficulty writing by hand. The employer rejects the application solely because he has specifically asked applicants to apply in handwriting, even though the job involves working with a computer and the woman otherwise matches all the job criteria. Rejecting the person's application is likely to be discriminatory because an ability to handwrite is not essential for the job, the applicant has the potential to do the job and the employer's reason for rejecting the applicant is related directly to her disability.

You should compare all applications against the criteria shown on the person specification and the requirements shown on the job description. Identify which applicants have shown that they can meet these, taking account of reasonable adjustments. If you cannot make this judgement without more information, and you would normally find out more about applicants during the interview process, it would be discriminatory to exclude a disabled person from the shortlist.

A blind woman is not shortlisted for a job involving computers because the employer wrongly assumes that blind people cannot use them. The employer makes no attempt to look at the individual circumstances. The employer has treated the woman less favourably than other people by not shortlisting her for the job. The treatment was on the grounds of the woman's disability (because assumptions would not be made about a non-disabled person).

Next, you should assess individual applications and decide a shortlist, taking account of the priority order of criteria from the person specification. If a guaranteed interview scheme is being used, all disabled people who meet the minimum criteria should be interviewed. If too many applicants meet the minimum criteria and secondary selection criteria are needed, care must again be taken to make these non-discriminatory. The Act allows positive action, so secondary criteria could favour disabled applicants.

When using e-recruiting, you should be careful not to use potentially discriminating criteria, such as unexplained gaps in work history, in the data mining process when filtering out applicants.

Preparing to record the interview

Before the interview:

- Draw up a list of selection criteria using the person specification and the job description.
- Determine the order of priority and list these on the interview record.
- Compile a list of questions to be asked of all applicants, based on the selection criteria.
- Use these to prepare interview records for use by the interview panel.

A suggested format is given below.

Interview record – sheet 1

Name

Vacancy

Name of interviewer

Date/time

Use this form to keep a record of each interview. Record your selection rating for this applicant according to the following:

1 = partially meets criteria 2 = mainly meets criteria

3 = fully meets criteria

Selection criterion/ priority rating	Interviewee's rating	Evidence shown	Reasonable adjustment required

Interview record – sheet 2

Use this form to record your decision-making. Keeping this record will:

- clearly show the decision-making process
- identify what action will be and has been taken and by whom
- provide evidence if any challenge arises under the Disability Discrimination Act.

Decision taken (stating what has been decided and why)

What action will be taken	Who will do this/when	Action taken (date and initials)

You must take account of the duty to make reasonable adjustments where these are needed in the arrangements you make for the interview process. Adjustments are as individual as the people who need them. The main types of adjustments will involve:

- overcoming problems associated with the physical features of your premises – for example, arrangements may need to be made to use a ground floor room or to provide accessible car parking
- making other arrangements to ensure disabled applicants are not disadvantaged – for example, reception staff will need to be briefed to ensure accessibility for any disabled people who will be attending the interviews; an induction loop may be needed if you are interviewing a deaf applicant or tests may need to be modified to ensure that they are fair.

All application forms and letters of invitation to interview should ask candidates if they have any specific access needs to be able to attend and take part in the interview. Examples of adjustments include sign language interpretation or information in accessible formats.

The need for reasonable adjustments should have been identified if you have taken a best practice approach by asking applicants about disability as part of the application process.

If an applicant has declared a disability, you should make contact and ask about reasonable adjustments. This should be done as soon as you know these are needed, as some arrangements can take time – for example, organising a sign language interpreter for an interview with a deaf applicant.

You will also have to make adjustments if it is reasonable to expect you to know that it is necessary. For example, where a current employee who is a wheelchair user is attending an interview for promotion. You must take account of their needs by holding the interview in an accessible room, even though

they may not have mentioned their disability or the need for an adjustment on their application.

If you are not aware of any requirement for reasonable adjustments, you may still find these are necessary when the interview takes place. You have a duty to do what you reasonably can from the time you know they are necessary, so be prepared to be flexible should the need arise.

Including aptitude or other tests in recruitment and selection

Applicants should be told about tests in advance of the interview so that they can let you know if they need any adjustments. The Disability Discrimination Act does not stop you carrying out aptitude or other tests, including psychological tests. However, routine testing of all applicants may result in an unjustifiable bias, which may discriminate against particular individuals or substantially disadvantage them.

Where tests are devised in-house, you may need to revise these – or the way the results are assessed – to take account of how these might be unfair for individuals with different types of impairment.

Where psychometric testing is undertaken, make sure the people who carry out the test are trained and understand the nature of discrimination within testing, how people's impairments may affect the test results and the requirements of the DDA.

Before making adjustments to commercially produced tests, seek professional advice from the manufacturers or a qualified chartered occupational psychologist in the light of individual circumstances.

Adjustments may be reasonable, but this depends on how closely the test is related to the job and what adjustments you might have to make if the applicant were given the job. For example, it may not be reasonable to adjust a test where the nature and form of the test is essential to assess something relevant to the job, for example a typing test for a court stenographer.

Including aptitude or other tests in recruitment and selection

The following are examples of adjustments that might be reasonable:

- allowing extra time to complete a test
- letting a reader or scribe help with reading or writing during a test
- accepting a lower pass rate for a person whose impairment inhibits performance in such a test where this is unlikely to harm performance in the actual job.

An employer sets applicants a short oral test. One applicant has a bad stammer, but only under stress. It may be a reasonable adjustment to allow her more time to complete the test, or to give the test in a written form instead. It would not be reasonable to give a written test if oral communication is central to the job and assessing this was the purpose of the test.

A person with restricted manual dexterity would be disadvantaged by a written test, so the employer gives that person an oral test instead.

Interviewers should ideally have attended disability equality or awareness training. They should be briefed on disability and their duties under the Act. A suggested briefing is given below. In addition, interviewers may also find it useful to read the section on Disability confidence.

Disability briefing for interviewers

Anyone involved in interview and selection processes has a duty under the Disability Discrimination Act not to discriminate against disabled people.

Under the Act they have duties:

- not to treat people defined as disabled by the Act less favourably than they would treat others, for reasons related to disability
- not to discriminate in the way arrangements for and offers of employment are made and as a result of any physical features of the premises used for employment purposes
- to make reasonable adjustments to remove any substantial disadvantage faced by someone with a disability or health condition, which might include allowing appropriate support or facilities for the disabled person at interview and more interview time if there is discussion of issues related to disability and reasonable adjustments at the interview.

Duties under the Act apply to all disabled people, as defined under the Act. This definition is very wide and, in addition to people with visible conditions, such as paralysis or blindness, it includes people with hidden conditions, such as sickle-cell anaemia or epilepsy. You will not necessarily know whether an applicant falls within the definition of disability, although it is best practice to ask applicants whether they need reasonable adjustments as part of any recruitment or selection process.

The duties apply in circumstances where you could reasonably be expected to know that someone is disabled in the terms of the Act, or from the time you do know a person is disabled.

They apply in all aspects of recruitment and the employment relationship – including before someone becomes an employee and after they have left employment. You must never use disability as a reason for rejecting an applicant in any employment-related situation.

If you do not meet your duties under the Act, the disabled person may bring a complaint of discrimination against you. If an employment tribunal upholds the complaint, you could have to pay substantial compensation.

A best practice approach to interviewing and selection

Because disability is not always known or expected, the sensible approach is to try to anticipate your duties and take steps, in advance, to make sure you do not discriminate against people with disabilities and health conditions.

All interviews and other selection procedures should be objective and non-biased. As an interviewer, your goal is to select the best person for the job. Because of this, you don't want to miss the potential of disabled applicants.

You will want to make sure that your own assumptions and misunderstandings about disability don't get in their way – people with disabilities and health conditions often develop innovative solutions to carry out everyday tasks, with or without technical aids or personal support, and develop important skills such as problem-solving and negotiation.

It's also important that disabled people get a fair chance to tell you about their capabilities and potential during the interview process. Any questions about someone's particular condition should only relate to their ability to do the job. It can be very useful to allow the person to guide you through their qualities

and limitations, as they know their needs better than anyone else. This will help you to find out whether the person needs an adjustment and what this might be. Remember that the crucial question is not simply whether this person is able to do the job but often it is whether he or she would be able to do it if a reasonable adjustment is made.

You should ask all applicants the same key questions and follow these up depending on individuals' answers. You should also keep a record of each interview.

You should objectively assess each applicant immediately after individual interviews. A standard procedure should be used and selection must be based on the agreed criteria.

Account should be taken of any reasonable adjustments that might be made to help disabled applicants do the job, for example by reassigning some minor duties to other employees or being flexible with working practices. Remember that selection should be based on the applicant's capability after reasonable adjustments have been made.

Examples of reasonable adjustments

A call centre normally employs supervisors on a full-time basis. A woman with sickle-cell anaemia applies for a job as a supervisor. Because of pain and fatigue relating to her condition she asks to do the job on a part-time basis. The call centre agrees. The hours of work offered amount to an adjustment to working practice. This is likely to be a reasonable adjustment to the call centre's working practice.

An applicant for an administrative job appears not to be the best person for the job but only because her typing speed is too slow as a result of arthritis in her hands. If a reasonable adjustment – perhaps an adapted keyboard – would overcome this, her typing speed could be as good or better than other applicants. Therefore, the employer would be unlawfully discriminating if, on account of her typing speed with a standard keyboard, he did not employ her or provide that adjustment. If the employer knew about this before the typing test, it would be best practice for the employer to allow the applicant to bring her own keyboard or to provide one for use during the test.

A woman who uses a wheelchair applies for a job. She can do the job as well as any other applicant but the employer wrongly assumes that the wheelchair will cause an obstruction in the office. He does not consider what reasonable adjustments would allow her to do the job, such as simply moving furniture to make more space. He gives the job to a person who is no more suitable but who is not a wheelchair user. This would amount to direct discrimination and would be unlawful.

While you have duties to make sure disabled people are interviewed and considered for selection fairly, at the end of the day you do not have to employ a disabled applicant if he or she is not the best person for the job.

For example:

- if they don't have the necessary skills or experience
- if another applicant has better skills or experience
- if the disabled applicant is less suitable for the job, having taken account of reasonable adjustments.

However, you must not use disability as a reason for not employing the disabled person.

Use of medical questionnaires and health screening in recruitment

Medical questionnaires

Medical questionnaires should not be needed until after a conditional job offer has been made, even when there are medical requirements for a job.

The Act does not prevent you from asking a disabled person to have a medical examination but you will probably be discriminating if you ask a disabled person to do this when others would not be required to do so, or having a disability or health condition has no effect on their ability to do the job.

Medical information should only be used in relation to the person's ability to do the job.

Medical information may form part of a risk assessment. (See the section on [Health and safety considerations](#).)

[link to 3.21](#)

Health screening

Having gone through the selection process and decided who is the best person for a job (with or without reasonable adjustments), where it is appropriate to do so you can start the health screening process. To do so earlier could mean you base your judgement of an individual's capability on reasons related to disability without considering reasonable adjustments – which might turn out to be discriminatory. Waiting until after you have identified a preferred candidate makes this far less likely to happen.

An employer requires all applicants for a job as a technician in a chemical plant, working on a specific project for two years, to complete a medical questionnaire before their interviews. One applicant's reply shows that she has a degenerative condition that is likely to affect her ability to walk. This is not relevant to her ability to do the job in question, which can be done sitting down. It would be unlawful for the employer to reject her on the grounds of her disability, as it is irrelevant to her ability to do the job in question. If he did so, this would amount to direct discrimination.

Use of medical questionnaires and health screening in recruitment

Issues to do with health screening should be dealt with by an occupational health specialist who understands the requirements of the DDA, how this works in practice and who is capable of providing a fair and informed assessment.

A disabled person with schizophrenia applies for a job as a supervisor with his local authority and declares a history of mental illness. He is refused employment because of a negative medical report from the authority's occupational health adviser. The report is based on assumptions about the effects of schizophrenia, without adequate consideration of the individual's abilities and the impact of the impairment in his particular case. This is likely to amount to direct discrimination and be unlawful.

An occupational health adviser recommends that an administrative assistant cannot carry on in her current job because she has been diagnosed with repetitive strain injury. The employer has another member of staff who uses voice recognition software and considers the technology may be useful. The employer asks the adviser to review his conclusion, taking this into account. The adviser revises his opinion and concludes that, with appropriate software, she can continue in her role.

An employer receives advice from an occupational health adviser stating simply that an employee is 'unfit for work'. The employer must consider whether there are reasonable adjustments that could be made to keep the employee in their job.

Whenever possible, employers should give feedback to unsuccessful applicants.

This is particularly important where there have been discussions about reasonable adjustments.

It must be made clear to disabled applicants that decisions are based on their level of skill or experience, not on disability-related issues.

Contact the successful applicant as soon as possible after a decision has been made, as he or she will need time to consider the offer and to accept.

Organisations often stint on this but positive feedback can have a major impact on people's confidence and their views of a company.

Making reasonable adjustments in the workplace for successful applicants

[link to 3.27](#)

A suggested procedure for exploring reasonable adjustments is given in the section on [Managing performance and disability](#). It will be useful to invite successful applicants to look around the workplace when they are offered jobs, to assess the need for adjustments and to explore how these can best be carried out.

The design of a particular workplace makes it difficult for someone with a hearing impairment to hear, because the main office is open-plan and has hard flooring. This substantial disadvantage, caused by the physical features of the workplace, is removed by relocating the person in an adjoining section, which is situated in a smaller, carpeted room.

Before a man who is deafblind starts a new job he comes into the workplace to see what is required. He and his employer agree what needs to be done. His employer arranges facilities at the site for his assistance dog, arranges for paperwork to be provided in Braille, trains colleagues to communicate with him and provides disability equality training to his manager and colleagues.

It may be appropriate to get advice and information on support from a disability employment adviser from your local job centre. This should be done as soon as possible because the process for securing adjustments can be slow.

A support worker for a blind person is provided through the Access to Work scheme. She comes into the workplace to read mail and documents.

It may also be necessary for the disabled person to return to the workplace, prior to actually starting work, to ensure that adjustments are suitable and complete.

Ensuring support from colleagues

You may need to consider how you ensure that other employees, especially the disabled person's colleagues, are briefed about their own duties under the Disability Discrimination Act and your expectations of them.

- Provide disability equality training for line managers and immediate colleagues.
- At the very least, you have a duty to make all employees aware of their responsibilities under the DDA and to ensure that they understand your policy on disability. You should also make employees aware of the content in the section on [Disability confidence](#).
- If problems occur, these should be dealt with quickly. In many instances problems will be as a result of misunderstandings and should be relatively straightforward to solve if dealt with quickly and efficiently. Serious issues should be addressed using formal disciplinary procedures.
- Together with the disabled person, you should consider whether colleagues need any information about the person, their disability or health condition and the reasonable adjustments that are being made. This is especially important if the success of these adjustments relies on cooperation from other people. This input should be done at the right time and sensitively, so that colleagues do not see the person as a potential threat or problem, or the adjustments as favouritism.

[link to 3.32](#)

An employer ensures that an employee with autism has a structured working day as a reasonable adjustment. As part of this reasonable adjustment, it is the employer's responsibility to make sure that other employees cooperate with this arrangement.

A man with a severe facial disfigurement chooses to explain his condition to his new colleagues. In previous jobs he has found that this is the best way to put them at ease, make them more confident in his company and to help them overcome any awkwardness.

Ensuring support from colleagues

A line manager explains to a new recruit's colleagues that their performance-related pay would not be compromised by his phased introduction to the workplace. Proactively reassuring colleagues will avoid situations where conflicts and misunderstandings can arise. Otherwise, these may undermine steps taken to make adjustments or may result in victimisation towards the disabled person.

Terms and conditions of employment and employment benefits

Disabled employees should be treated as other employees are treated, for example, in terms of salary, performance-related pay schemes and any other employment-related benefits.

If you treat a disabled employee less favourably on the grounds of their disability than you would treat someone whose relevant circumstances are comparable, this is direct discrimination and cannot be justified. This may arise where you deliberately treat a disabled person differently, or where you make stereotypical assumptions about them without considering their individual circumstances.

If you treat someone less favourably for a reason related to their disability, in circumstances which do not amount to direct discrimination, the treatment can only be justified if you can show that:

- making a reasonable adjustment would have made no difference; and
- the effect on the person's work is both substantial and relevant to the job of the person concerned; and
- the cause of the effect is either not related to disability or, if it is related to disability, there is no reasonable adjustment that can be made to overcome its effect; and
- other employees would be treated the same if their output or productivity was reduced for other reasons.

Terms and conditions for new employees

Once an appointment has been made, a contract of employment must be drawn up. The terms and conditions of employment offered must not discriminate against someone with a disability or health condition for a reason related to disability. Where a disabled person, in the terms of the DDA, is put at a disadvantage compared to others, you have a duty to make reasonable adjustments.

An employee's terms and conditions state the hours an employee has to be in work. It might be a reasonable adjustment to change these hours, for example for someone with an anxiety condition which means that she has difficulty using public transport during rush hours.

Likewise, a probationary period could be arranged but only if this is a standard procedure for all employees.

Terms and conditions for existing employees

You should review all existing terms and conditions to ensure that these are not likely to discriminate on grounds of disability. The key areas to examine include grievance procedures, sick leave, performance-related pay, employment benefits, occupational pensions and group insurance services.

Grievance procedures

Grievance procedures should be written into the terms and conditions and given to all employees. These should detail:

- where employees should go to seek redress for any grievances relating to employment, including on disability – details of this are given in the section on [Resolving disputes](#)
- how this should be done
- what further steps to take.

[link to 3.37](#)

Sickness and disability

There is a difference between sickness and disability-related absences. Disabled people generally take no more or less sick leave than other employees. However, a minority, owing to the nature of their condition may need to take additional disability-related absences.

As you are required, in law, to deal with disability in a non-discriminatory way, it will be sensible to distinguish between sickness and disability-related leave in your policies, record keeping and procedures.

While you may have a policy for monitoring sick leave, this should not be used when the absence is disability-related. You must ensure that you do not treat a disabled person less favourably than others would be treated, for a reason related to disability. See the section on [Frequently asked questions about absences related to disability](#).

[link to 3.29](#)

Disability-related policy and procedures should also take reasonable adjustments into account, for example in the case of medical appointments and treatments, long-term absences and sick pay entitlements.

The reasonableness of adjustments should be considered in line with the criteria explained in [Definitions and explanations relating to disability and discrimination](#).

[link to 2.1](#)

An employer has a sick leave policy that limits absences to three days in any six-month period. If an employee acquires a disability or long-term health condition and needs regular treatment to stabilise his condition, the employer could be discriminating if it penalised the employee for taking sick leave relating to disability. It is best practice for employers to distinguish between sick leave and disability-related absences.

The important thing to remember is that this does not mean an employer could be expected to allow indefinite sickness absence but that each case should be viewed to see if a reasonable adjustment is possible. In the above example, if the employee needed two hours off a week for six months for physiotherapy it would probably be reasonable for almost any employer. However, if the same employee was likely to be absent for many months, with no other reasonable adjustment possible to enable him to continue working, paying indefinite sickness pay would not be reasonable for most employers.

Performance-related pay

Where the terms and conditions of employment include an element of performance-related pay, you must make sure you do not discriminate against a disabled person on the grounds of disability. Discrimination is likely to occur if an employee is denied the opportunity to receive performance-related pay or if he or she receives less favourable treatment.

Where an employee has a disability that lowers his or her rate of output, you must explore whether it is possible to make reasonable adjustments to overcome this before you reduce the employee's earnings under performance-related pay schemes.

A disabled man with arthritis works in telephone sales and is paid commission on the value of his sales. Because of a worsening impairment he is advised to switch to new computer equipment. This slows down his work for a while until he gets used to it – consequently the value of his sales falls. It is likely to be a reasonable adjustment for his employer to continue to pay him his previous level of commission for the period in which he adjusts to the new equipment.

A disabled home-worker, who is paid a fixed rate for each item he produces, has a reduced output rate because he does not have the right equipment to do the job to the best of his ability. It is likely to be a reasonable adjustment for the employer to provide that equipment, possibly with funding or advice from the Access to Work scheme, to improve the disabled person's output and consequently his pay.

A woman has recently been diagnosed with diabetes. Her employer operates a performance-related bonus scheme. When she has her annual appraisal, the woman is unable to show that she has met all her objectives for the year, unlike in previous years when she exceeded her objectives. This is because she has been adjusting to her condition by taking

time off for hospital appointments and organising her work time to allow for regular breaks. Her employer is likely to be discriminating against her if, because she has not met her objectives for the year in full due to these factors, he refuses to pay her a bonus.

Employment benefits

Employers must not discriminate in the way they make benefits available to employees with a disability or health condition where those benefits are available to others. This applies to current and past employees. Employers must also take their duty to make reasonable adjustments into account.

Occupational pensions

Discrimination by employers is defined in [Definitions and explanations relating to disability and discrimination](#). In the case of occupational pensions, discrimination may also occur because of an employer's failure to make a reasonable adjustment to any provision, criterion or practice in relation to the pension benefits of someone defined as disabled under the DDA.

When new schemes are set up, employers are likely to have substantial input and in doing so they must not discriminate against disabled people. However, in relation to a well-established pension scheme, the application of provisions, criteria and practices relating to pensions benefits is likely to be controlled by the trustees or managers of the pension scheme.

Pension scheme trustees and managers must not contravene a 'non-discrimination rule', which must be included in every occupational pension scheme. They have the power to make alterations to a scheme so that it conforms to the non-discrimination rule.

[link to 2.1](#)

Under the rule, trustees and managers are prohibited from discriminating against a disabled person who is a member or prospective member of the scheme in carrying out any of their functions in relation to the scheme, including those relating to the admission and treatment of members; and subjecting such a person to harassment in relation to the scheme.

Where there may be conflict between the non-discrimination rule and other provisions of a pension scheme, the non-discrimination rule prevails.

Further explanation of the non-discrimination rule and how this relates to reasonable adjustments concerning rights accrued in respect of periods of service prior to 1 October 2004 and to communication with members, prospective members and pension credit members about rights and benefits, is given in the Code of Practice ([click here](#)).

[link to 4.1](#)

The DDA duty to make reasonable adjustments:

- applies to pension scheme trustees and managers in the same way as it applies to employers
- is owed to people defined as disabled by the DDA who are members or prospective members of the scheme and relates to any provision, criterion or practice (including the scheme rule) applied by or on behalf of the trustees or managers and any physical feature of premises that they occupy. The Act refers to making alterations to the rules of the pension scheme as an example of a reasonable adjustment.

Group insurance services

In the case of group insurance services – that is, the provision of benefits in respect of termination of service, retirement, old age or death, accident, injury, sickness or invalidity – the duty to make reasonable adjustments applies to how employers make insurance services available to a disabled employee. In reality, the employer's role is often limited to explaining the group insurance services and to proposing employees to the insurer for cover under a group policy.

Terms and conditions of employment and employment benefits

Where an insurer agrees with an employer to provide insurance services to his or her employees, or to give those employees an opportunity to receive such services, it is unlawful for the insurer to discriminate against any disabled employee.

Insurers will be in breach of their duties under the DDA if they act towards a disabled person in a way that amounts to discrimination by the providers of services.

It is best practice to give an induction to all those entering new jobs. Induction is likely to be the new recruit's first chance to meet colleagues, find his or her way around the premises and to learn about your organisation. Everything will be new and unexpected issues may arise.

Be sensitive to people who take time to be open about the effects of a disability or health condition and make sure that reasonable adjustments are taken into account for this phase of the employment. As always, these will largely depend on the individual concerned and, ideally, should have been identified before the person starts work for you.

Some disabled people may take longer than other employees to settle into a job. It may be appropriate to allow a longer induction period than usual for some employees. This is particularly relevant when reasonable adjustments are being tried out. In some situations, it may be appropriate to assign another member of staff to support the new employee for a specified period of time.

Care must be taken to encourage independence and confidence in the disabled person and to avoid causing resentment from other colleagues.

Health and safety considerations

Health and safety obligations should be used to underpin a best practice approach to disabilities and long-term health conditions, not to try to justify discrimination. Stereotypical assumptions about the health and safety implications of disability and health conditions should be avoided, both in general terms and in relation to particular disabilities and conditions.

An employer has a policy of not employing anyone with diabetes because it believes that people with this condition are a health and safety risk. Someone with diabetes applies for a job and is turned down on the basis of her condition, without regard to her personal circumstances. A stereotypical assumption has been made which is likely to amount to direct discrimination and be unlawful.

People often think of health and safety as a problem in relation to disability. In fact, where reasonable adjustments are made for disabled individuals, these often improve health and safety for all staff and sometimes for customers.

A blind person joins a small administration department. Before she arrives her line manager asks colleagues to tidy up the office to remove all hazards. They sort out trailing computer cables and piles of boxes that have been lying around since they moved into the room a year earlier.

Someone who has difficulty walking is transferred to a different building on promotion. It is an older building with several steps to the front door. The handrail came adrift some years earlier and was never repaired. This is repaired before he starts work there.

Under health and safety law it is your duty to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all employees.

A genuine concern about the health and safety of everybody (including disabled employees) is necessary in the workplace.

However, it is important to remember that health and safety law does not require you to remove all conceivable risk but to ensure that risk is properly appreciated, understood and managed.

You should avoid blanket policies covering everyone with a particular disability or health condition, for example excluding all people with HIV or hepatitis from working in a catering establishment or anyone with diabetes or epilepsy from working with machinery.

Further information, including factsheets, can be obtained from the Health and Safety Executive.

Telephone: 08701 545 500

Fax: 02920 859 260

Textphone: 02920 808 537

Email: hseinformationservices@natbrit.com

Website: www.hse.gov.uk

[link to
www.hse.gov.uk](http://www.hse.gov.uk)

As an employer, you must decide what action to take in response to concerns about health and safety. If you think that the effects of someone's disability may affect health and safety, it will be sensible to have a new risk assessment carried out by a suitably qualified person. This person must have knowledge of the duties placed on employers under the Disability Discrimination Act.

A pilot develops a heart condition and his employer asks him to undertake a risk assessment to be carried out by an appropriate consultant. This is likely to be legal.

A person with a learning disability has been working in a shop for many years, stocking shelves without any problems. A new manager is appointed who insists that a risk assessment is carried out for her but not for all other shelf stackers. This is likely to be unwarranted – and to amount to direct discrimination.

Frequently asked questions about health and safety

Question – What do we do when we have health and safety advice that seems to conflict with our policy to retain and make adjustments?

Answer – Where you have been given conflicting advice about the health and safety risks of retaining a disabled employee, you need to review that advice very carefully. This is particularly so if one adviser recommends that the person can no longer be safely employed. Whilst there are certain situations where employing a particular person in a specific job would breach health and safety legislation, such situations are rare. In most cases, even apparently hazardous situations can be managed by reasonable adjustments.

In order to meet the obligations of both the Health and Safety at Work and Disability Discrimination Acts, you should:

- Make an individual, objective and competent assessment of any risk that may be associated with employing the particular person in the specific job.
- Consider and, where possible, implement reasonable adjustments which would reduce or remove any unacceptable risks identified by the risk assessment.

Amongst the people who may be able to help you to assess and address potential risks are:

- the disabled employee themselves – in many circumstances, the employee may well be able to identify a simple change that would overcome the potential risk or reduce it to an acceptable level
- occupational health advisers
- health and safety consultants
- ergonomic specialists
- disability employment advisers.

In undertaking or commissioning a risk assessment, you will need to ensure that those involved:

- Focus on facts, not assumptions.
- Assess the individual and avoid blanket restrictions.
- Involve the employee in discussions to identify how the risks may be overcome.
- Apply best medical evidence on prognosis and associated hazards and risks.
- Relate the individual to the essential requirements of the job.
- Consider all relevant occupational factors.
- Identify the actual duration and frequency of hazardous situations.
- Seek additional advice, where possible, from other practitioners who may have dealt with similar situations.
- Identify potential reasonable adjustments that would overcome the risk or reduce it to an acceptable level.

If the risk is still found to be unacceptable and no reasonable adjustment can effectively remove or lessen it, you may have no choice but to terminate the employee's contract. In order to justify such a dismissal you would need to be able to demonstrate that you had undertaken a properly conducted risk assessment which:

- provides a reason that is both material and substantial, and
- is not irrational.

However, prior to dismissal you will need to show that you have considered all other possible reasonable adjustments, including redeployment to another vacancy where the risk does not arise.

Question – What if a small risk remains but the employee says she is happy to take it if it means she can still continue working?

Answer – Where the employee decides the benefits of working outweigh the risks, this should be respected wherever possible. The relationship between your duty of care as an

employer and an individual's freedom of choice is complex and it may be sensible to seek legal advice.

As the employer, you are expected to do all that is reasonably practicable to eliminate risk in the workplace but the law recognises that you can't be expected to remove all risks absolutely. In light of this, depending on the nature of your business, there may be occasions when it will be lawful for you and your employees to accept even serious residual health and safety risks inherent in dangerous occupations – providing the condition of reasonable practicability has been complied with.

This same principle may apply to additional risk because of the increased susceptibility of the particular employee. The special risk of injury to an employee with a known disability or health condition is a relevant consideration in determining the precautions that you would have to make in order to meet your duty of care as the employer. Where you have acted reasonably to reduce risk and the employee is genuinely informed about any remaining risk, any subsequent action in negligence for resulting harm should fail.

There are many benefits of retaining people who develop a disability or health condition during their working lives.

Many disabled people have well-developed problem-solving skills that can be benefit your workplace. Living with a disability or a health condition often means dealing with difficulties as part of everyday life, using planning, negotiation and problem-solving skills. These types of flexible and transferable skills can be useful and can promote a problem-solving culture.

Organisations that actively recruit and support employees with disabilities and health conditions tend to have good people management systems. They retain expertise and skills, improve staff morale and enhance their public reputation.

In addition, research has shown that, when disability and health are properly managed, disabled employees tend to take less sick leave than their non-disabled colleagues and stay with employers for longer. The cost of keeping an employee, through reasonable adjustment, who develops a disability or health condition will almost always cost far less than having to recruit and train a new employee.

Often, adjustments that are made for people with a disability or health condition benefit others – both employees and customers. As an organisation becomes more disability aware, these changes become part of mainstream activities – just the way things are done – and this is to everyone's benefit.

Best practice in retention means holding on to valuable employees, whether they have a disability or health condition, when they are first employed or become disabled during the course of their employment.

The key is to make your response to disability a positive one that focuses on how you can keep valuable human resources and enable people to perform to their full potential by making reasonable adjustments.

This disability management approach to retention should:

- Increase the numbers of employees returning to work after a short or long-term absence.
- Reduce the costs associated with absence in the workplace.
- Improve productivity and employee morale.
- Avoid inadvertent discrimination towards disabled employees.
- Avoid a negative approach, which focuses on irrelevant medical requirements or 'getting rid of' perceived problems.

[link to 3.27](#)

For further guidance, see the section on [Managing performance and disability](#).

BT

BT has many initiatives to help in retaining employees with disabilities and health conditions. One of these is a partnership with an outsourced specialist disability consultancy, which provides support and guidance to employees and their managers, to allow the full potential of all staff to be realised.

For example, a BT employee, working in a surplus resource team, developed a progressive visual impairment and also had dyslexia, affecting written work and short-term memory.

Occupational health reports were carried out. These indicated that a return to customer service engineer duties was no longer an option.

A workplace assessment by AbilityNet (specialist IT assessors) had taken place but the recommendations had not yet been acted upon.

The disability consultant met with the individual and his current and previous line managers to determine the way forward. Options included:

- looking for suitable, permanent, alternative employment
- obtaining equipment to allow him to undertake that job
- implementing workplace adjustments, using the Government funded Access to Work scheme
- finding a provider of visual impairment skills development training to help him manage his acquired impairment.

As a result of the disability consultant's input, the following were identified for that employee:

- a position within BT's Self Motivated Teams Appeals team
- a task analysis of the employee's job and the production of a job description with built-in reasonable adjustments

- advice on the equipment needed, the costs and sources of financial support through the Access to Work scheme, including £3,500 for travel to work.

The disability consultancy's involvement ensured adjustment needs were addressed and reduced exposure to risk for the organisation and line manager. The case shows complex difficulties can be overcome with the right equipment, adjustments and expertise being available.

Employers' Forum on Disability

Dee Hanlon is an information officer at the Employers' Forum on Disability. She developed repetitive strain injury (RSI). Much of her work involved designing and producing information sheets and other publications, so it was necessary to find a way to enable her to continue doing her job.

Her employer is a non-profit making organisation, so it was decided that the Access to Work scheme would be the best way to arrange for an assessment and to obtain funding for the necessary adjustments.

Dee contacted her local Access to Work business centre and completed an application form for the scheme. She needed to provide medical proof of the RSI, so arranged for a letter from her physiotherapist. The Access to Work administrator contacted Dee two weeks after she submitted her application forms and arranged for a workplace assessment to be done the following week.

After the assessment, the assessor recommended voice-activated software, training to use the software and an ergonomic keyboard. Access to Work agreed to pay 80 per cent of the cost of these adjustments. It took about two weeks for the equipment to arrive and be installed and the training took place the following week.

Dee has had no more symptoms since using the equipment and is now able to continue providing advice, information and publications without the discomfort she had been experiencing before – making it easier for her to do her job. Once Access to Work contacted Dee, they acted in a helpful way to provide the adjustments as quickly as possible.

The Metropolitan Police

With 18 years of service under her belt, DC Paula Craig is the first to admit that she has a passion for policing. So when a motorist knocked her off her bike in May 2001, causing her to break her back, she feared losing her job because police officers were not covered by the DDA before October 2004. Thankfully she had little to worry about. While she was in hospital, the Director General of the National Crime Squad – where she had worked for the previous five years – visited her, as did the commissioner who reassured her that the service would still have a job for her.

Paula rejoined the Met after 11 months off to recuperate from the accident that dislocated two of her vertebrae and damaged her spinal cord. She now uses a wheelchair.

- On returning to work, she began on 'recuperative duties', working four consecutive five-hour days a week. Instead of the surveillance work she was due to start, Paula worked in the intelligence unit. Here she was involved in research and administration of surveillance operations.
- Paula came into work while she was still off sick to say what she needed and since then, everything has been sorted out. The large Portakabin where she worked has an entrance ramp and a designated parking space for her car. The toilet was adapted so Paula could access it easily and a higher desk was ordered to fit her wheelchair.

Case studies showing best practice in retention

Paula was promoted to detective sergeant in 2003 and is now working in Hendon, where adjustments have been made for her. She says 'it was necessary for me to be able to get to the first and second floors for meetings and general duties but an enormous amount of extra work has been carried out to make life easier for me at work. There is even a wheelchair accessible shower now'.

While access is improving, Paula admits that some people still need educating about disability. 'It's like life outside the job – some people know how to react and some people haven't got a clue.' She's frustrated by inaccessible transport in London and by people misusing parking bays. However Paula's convinced that the service's positive attitude has aided her recovery: 'giving me back my job is the best thing they could have done'.

Mental health conditions are increasingly common and come in many forms, any of which may be encountered and dealt with appropriately in the workplace. For example, the Royal College of Psychiatrists reports that:

- at some point, around one in every five women and one in every 10 men will experience depression
- at any given time, one in every 20 adults is experiencing a serious 'major' depression and a similar number will have less serious depression.

Naturally, problems that are common in the general population are common in people at work. In any one year, about three in every 10 employees will have a mental health problem at work, with depression being one of the most common. It is not just distressing for the person involved – without appropriate support, it can make them less productive at work and is responsible for high rates of sick leave, accidents and staff turnover.

Many employers and their employees are more anxious about dealing with mental health conditions than other types of disabilities and health conditions. Yet, as shown above, it is probably the type of condition you are most likely to experience yourself or come across in the workplace.

A perceptive and effective line manager will spot such an issue early on, perhaps though some change in an individual's behaviour over a period of time – for example, in consistent late arrivals, low morale, decreased productivity or missed deadlines, and this may indicate a problem. However, these could also just be an indication of someone who is going through a difficult time in their lives or is having a bad week.

Research has shown that early intervention is the best way to successfully deal with mental health conditions in the workplace. Ignoring them because of your own anxiety and hoping that they will go away won't work.

The following examples suggest how mental health problems may show themselves in the workplace and how reasonable adjustments may help to reduce the effect of the illness.

Some people experiencing a mental health condition may find it difficult to screen out noises, sights or smells in their environment. This may interfere with their ability to focus on the job in hand.

A reasonable adjustment might be to move work areas away from the problem, allow the employee to wear headphones playing soothing music or ear protectors to screen out distracting noise or install partition screens around the desk to hide distracting sights.

Some people experiencing mental health conditions may find it difficult to sustain concentration and may have problems remembering verbal instructions.

Reasonable adjustments might be to break down large jobs into several smaller ones, allow shorter but more frequent breaks, allow the person to walk around and get fresh air, give the person one job at a time and write down instructions.

Some people experiencing mental health conditions may find it difficult to concentrate for long periods and may experience drowsiness due to medication.

A reasonable adjustment might include offering flexible or shorter hours, rest breaks during the day or job sharing.

Some people may find it difficult to handle pressure or to handle lots of tasks at once.

A reasonable adjustment might include helping them to break larger tasks down into small ones, meeting with them regularly to discuss progress, prioritise tasks and estimate completion times. However, some people like to be busy and to have challenging work and this is key to their feeling positive in the workplace.

Some people experiencing a condition such as Asperger's syndrome, a form of autism, may find it difficult to interact and communicate with other people.

A reasonable adjustment might include (with the individual's consent) briefing colleagues about the person's needs and organising a mentor or buddy in the workplace. Because people with Asperger's often interpret written and verbal communication in a very literal way, it may be helpful to check back that someone has understood any new information or instructions.

Some people experiencing mental health conditions may find it difficult to accept criticism or advice.

A reasonable adjustment might include using a feedback loop (for example, by asking for the employee's perspective of their performance, responding by offering your perspective suggesting their strengths and weaknesses, then suggesting specific changes they could make to improve performance) or giving the person written feedback and allowing them time to read and reflect on this before a meeting.

Some people experiencing mental health conditions may find it difficult to respond to change in the workplace.

Reasonable adjustments might include giving plenty of notice of planned changes, giving clear and full explanations of the change and why it is necessary and ensuring that the person is included when, for example, new employees are introduced.

Sources of information and advice about mental health in the workplace

The Department of Health has published some resources to help employers deal with mental health conditions in the workplace.

- The Working Minds Toolkit is a practical guide to help employers make positive changes to policy and practice surrounding mental health. It can be downloaded from the Internet. [Click here](#)
- 'Line managers: A practical guide to managing and supporting mental health in the workplace' builds in the above resource. It is designed to help line managers, particularly those in small and medium-sized organisations, to manage and support people who experience stress, distress and other mental health problems in the workplace. It will help them to spot early signs of distress, take action to prevent problems from escalating and support an employee who is off sick and planning a successful return to work. It can be downloaded from the Internet. [Click here](#)

The Royal College of Psychiatrists provide information about, and guidance on, managing depression and other mental health problems in the workplace. Factsheets are available on many conditions relating to mental health. These are free (send an s.a.e. 76p) and are downloadable from the website. Contact them at Help is at Hand, External Affairs Department, Royal College of Psychiatrists, 17 Belgrave Square, London SW1X 8PG. [Click here](#)

The Center for Psychiatric Rehabilitation at Boston University has information about adjustments that can be made for people experiencing mental health problems in the workplace. [Click here](#)

www.nimhe.org.uk/antistigma/employers/w08_toolkit.asp?ct=employers+toolkit&l=2

www.nimhe.org.uk/whatshapp/it/itm_display_publications.asp?id=332

www.rcpsych.ac.uk/info/pricelist.htm

www.bu.edu/cpr/reasaccom/employ-func.html

Enable

Enable is a service provided by Shropshire County Council. Its aim is to prevent the creation of long-term and severe mental health conditions and to ensure a successful return to work for their clients. They work with referrals from GP's surgeries because they have found that early intervention is the best way to achieve this.

Mr Able works as a warehouseman for a local supermarket. He has been with the store since it opened and felt a high degree of loyalty and commitment. He was contracted to work 45 hours a week but found himself being asked to do more and more overtime until he was sometimes working 65 hours a week. One night the manager rang him at home and asked him to come back into work at 1 am. After working through the night, Mr Able continued with his day shift. This pattern continued and within a few weeks Mr Able had to see his doctor, who diagnosed exhaustion and depression. This was Mr Able's only episode of a mental health problem in 29 years of work history.

Mr Able was only referred to Enable after he had been off work for six months. During this time he had tried to return to work but had only managed this for a week. His finances were in a poor state as he had only received statutory sick pay during this period.

Following an initial assessment, contact was made with the human resources department of the supermarket to begin discussions about issues at work. Although HR departments of big chains may have a good understanding of their responsibilities under the Disability Discrimination Act, this may not be the case at the local level.

At the same time, a referral was made to psychological services for counselling for unresolved bereavement issues relating to Mr Able's mother's death two years before. Further to this, a referral was made for assertiveness training.

Case study – mental health in the workplace

With support in place and following some correspondence and a number of telephone conversations, a meeting was set up between the area manager, Mr Able and the Enable caseworker. It was agreed that Mr Able would have a structured return to work, starting with four hours a day for five days a week. It was anticipated that this would continue for the first month, after which he could build up the hours at his own discretion. The main point to be agreed was that Mr Able should not be placed under any pressure to do overtime, as he was happy to stick to his contracted hours.

Mr Able completed an assertiveness course to give him the skills to turn down any requests to do overtime. He had a number of counselling sessions about his bereavement and after the initial month he was gradually able to return to full-time hours.

In some organisations and businesses, the responsibility for performance and disability management lies with HR staff, a disability coordinator or someone else with specialist knowledge. In most cases, however, responsibility will lie with a line manager who may not have specialist skills and knowledge. For this reason it is important to implement a standard, well-defined procedure.

Disability management should be put into practice in all aspects of recruitment, selection and employment, including performance. To do this effectively, you must also ensure that all your policies, procedures and practices are supportive to both this process and to disabled people in the workplace.

For example, given that most people acquire their disability or health condition during their working lives, it will be best practice to ask all employees on an annual appraisal form if, during the past 12 months:

- they have acquired a disability or long-term significant health condition
- there has been any change in the effect of an existing disability or health condition
- if any existing reasonable adjustments are sufficient
- if they would like to discuss reasonable adjustments.

Where there appears to be a disability or health condition involved, this should trigger a disability management approach. When an employee discloses a disability, this should never be ignored. Likewise, where an employee's pattern of absence suggests that this might be related to disability, it should be followed up using a disability management approach.

A disability management approach coordinates all the factors that should be considered, including:

- how the individual's disability or health condition is showing or may show itself in the workplace
- how these effects can be removed by making reasonable adjustments
- how reasonable adjustments will be implemented and assessed for effectiveness.

In addition, it brings together all the people who need to be involved, for example:

- the person with the disability or health condition
- their line manager
- specialists, such as occupational health advisers, a disability employment adviser from the job centre, a health and safety officer, ergonomics expert, trades union or other employee representative.

Throughout the process, it is important to keep written records of the decisions that you and others make, including the rationale for them, together with full details of the actions taken.

Disability management process

Step 1 – Identify employees who need management or support related to disability or health conditions. Reasons for adopting a disability management approach are to ensure early intervention, avoid difficulties, speed up the return-to-work process and avoid discrimination.

For example, you may know that a new recruit or someone involved in a selection process is disabled and may need reasonable adjustments.

An employee may have disclosed a condition or disability – perhaps during a performance appraisal.

An employee may be absent from work because of disability, sickness or a long-term health condition.

You may become aware, or suspect, that an employee has acquired a significant, long-term health condition or disability – perhaps as a result of taking more prolonged or frequent sick leave or showing a drop in productivity or an indication of pain, tiredness or a change in attitude. The employee may not be able or willing to recognise that this is related to disability. They are also not under any obligation to tell you about a disability. Nevertheless, a best practice approach involves taking steps to identify whether this is related to disability and to make adjustments accordingly. These absences could relate to a previously undisclosed or newly diagnosed condition, a non-disability or health-related condition, such as divorce or bereavement, or to harassment or bullying.

Step 2 – Ensure that the individual concerned understands that:

- they have rights under the Disability Discrimination Act and (as their employer or employer's representative) you have a duty to uphold those rights
- you are being supportive and that your aim is to help them stay in work by making reasonable adjustments to meet their needs
- the disability management process is confidential.

Step 3 – Initiate and manage the interview, assessment, decision-making and review process.

When managing disability or a long-term health condition with a new employee, discuss with the person where adjustments are required and what these might be. This will involve:

- examining the person specification and job description to identify key tasks and capability standards for that individual in that job

- supporting the individual's application for funding under the Access to Work scheme, if required
- arranging assessments with specialists and briefing these specialists on their duties under the DDA and the requirements of the workplace and the job
- collating reports to interpret and evaluate assessments – it will ultimately be your responsibility to decide which adjustments are reasonable and appropriate.

When managing disability or a health condition that is affecting attendance or performance, you should meet with the employee to state your concerns regarding performance. It is important to stress that the reason for the meeting is because you want to know if difficulties are as a result of disability and that you need to know if adjustments can be made to help. In an ideal world the employee will be able to discuss any specific difficulties and, if appropriate, a dialogue can begin around potential reasonable adjustments. In reality, particularly if the person is not comfortable discussing a disability or health issue, they may initially look for a range of other reasons to explain changes in performance.

You should aim to reach an agreement with the employee about the current level of performance and why it is happening and agree specific actions to address the performance issues and any additional support or resources that are required.

You should identify and record adjustments to help the employee improve their performance, agreeing targets for improvement, to enable a return to work, to reduce the number or length of absences or to allow for occasional, planned absences.

You should also identify a mechanism for ongoing review and feedback. It will still be necessary to continue with the review process, even when performance begins to improve. You should not assume that poor performance was not related to

disability if there is a quick improvement. In some instances, having had the issues with performance raised, the employee may actually be working harder than they should to cover up the effects of a disability. This may have serious longer-term consequences for all parties.

In some cases the issue may be one of behaviour, rather than performance. For example, where a member of staff has become rude and off-hand with colleagues, it is important to talk about specific behaviour and its effects rather than to make general observations about the individual. The discussion with the employee should result in the same outcomes as for issues related to performance.

Where reasonable adjustments are used, care must be taken to ensure that the employee has the support of managers and colleagues. With the approval of the individual concerned, they may need to be briefed on the nature and purpose of the adjustments, especially where there may be a perception of favoured treatment because of reduced working hours or the provision of special equipment.

This will help to avoid discrimination, perhaps through sabotage or harassment, whether deliberate or unintentional.

Examples of reasonable adjustments that may be appropriate include:

- providing equipment or altering working arrangements as the workplace may be aggravating the condition and contributing to the level of absence
- providing training for the employee – the employee's absences may be stress-related due to the volume of work or changing practices at work. Training may help the employee to manage their workload and time more effectively.
- reallocating, temporarily or permanently, some of the employee's duties to other staff, particularly with duties or tasks that are urgent or cannot wait until the employee returns to work

- transferring the employee to a suitable alternative vacancy – which might be one where the employee's unpredictable absences could be more easily accommodated, additional adjustments may still be required in the alternative job
- managing without the employee (whenever the person needs to be absent).

In deciding on reasonable adjustments, it will be necessary to consider:

- whether and for how long other employees can cover the absent employee's workload
- the disruption that will be caused by the employee's absence
- whether or not a temporary replacement can be recruited and how much this will cost
- the size and resources of the organisation and its ability to absorb the cost
- the length of service and any specialist skills the employee has.

In addition, with predictable short-term absence, you may need to consider:

- alterations to leave entitlement, flexible working such as a flexitime system or annualised hours contract
- how the absences are recorded
- effect on bonuses
- adjustments to pay and working hours.

A record of requests for reasonable adjustments should be kept. A suggested format is given below. Copies should be given to the disabled person and others involved in the disability management process, including the line manager.

Sheet 1 – Request for reasonable adjustment

Name of employee

Date of request

Name of line manager

Details of adjustment requested

Reason for request

Line manager's recommendations

Step 4 – Reasonable adjustments should be implemented and tested to evaluate their effectiveness for the individual in that particular job.

Where necessary, adjustments should be supported by training and allowances should be made for adapting to new situations and equipment when performance is assessed.

The disabled person has a duty under the Act to cooperate with the employer's duty to make reasonable adjustments. If he or she is not willing to do this, the employer may have grounds for dismissal.

Name of person evaluating request

Date of evaluation

Comments on request

Decision taken – full justification must be given if request is refused

Action to be taken – by whom, when, expected outcome

Step 5 – Where no effective reasonable adjustment can be found, you have a duty to consider redeployment as an alternative to dismissal.

The redeployment process should involve an examination of the individual's skills, experiences and training needs.

A recent House of Lords case has demonstrated that this duty can extend to redeploying someone into a more senior role if they have the necessary skills to do it.

Wherever possible:

- these should be matched to current and future vacancies within the organisation and business
- the individual should be redeployed at least at the same level and salary.

If the individual:

- meets the person specification for the vacant position he or she should not be subject to competitive interviews
- is absent awaiting redeployment, even after long-term absence, he or she should be on full salary.

Step 6 – When neither a reasonable adjustment nor redeployment can be found, there may be no alternative but to consider dismissal. If so, you must manage the termination of employment in accordance with your duties under the DDA. (See the sections on [Discipline and dismissal](#) and on [Redundancy and retirement](#).)

[link to 3.31](#)

[link to 3.36](#)

Ensuring confidentiality in the disability management process

If an employee discloses that they have a disability or health condition, they may wish the information to remain confidential. For example, they may be embarrassed or concerned about the reaction of other employees. If an adjustment is necessary, such as time off for treatment, the employee's supervisor will need to know that an adjustment

to work is required. However, neither the supervisor nor other workers need to be told the precise reasons, if the employee prefers that they aren't, merely the nature of the adjustment.

Where an employee needs the support of colleagues so that adjustments can be successful, you should point this out and try to encourage them to be open about the disability or health condition or about what they need. You will need to reassure the employee that any discrimination encountered, such as harassment or victimisation, will not be tolerated and will be dealt with immediately. If the employee still wants the information to remain confidential, this view must be respected.

Where an employee has disclosed a disability or health condition to the human resources or occupational health department, the employer is deemed, under the DDA, to know that the person is disabled and is therefore under a duty to consider reasonable adjustments.

Sources of information and advice

[link to 4.2](#)

Many of the organisations listed in the section on [Disability organisations](#) can give information and advice about disabilities or health conditions and performance management in the workplace. Many provide free factsheets on their websites.

[link to 4.1](#)

Advice on retention is available from disability employment advisers at your local job centre. [Click here](#)

[link](#)

The Employers' Forum on Disability has produced a guide to managing retention. Contact them on Telephone: 020 7403 3020. Website: www.employers-forum.co.uk.

Use of medical questionnaires and health screening in retention

How should medical and health issues be managed in retention?

There may be circumstances where you are unsure about whether difficulties being experienced by individual employees are related to a disability or a long-term health condition – for example, where these manifest themselves as frequent sick leave or as lowered productivity. In these cases, you should investigate whether this could be overcome or managed through the use of reasonable adjustments. One way of doing this is to ask the employee whether he or she will go for a medical report from a medical adviser so that you can establish whether reasonable adjustments will help a return to work.

You can't make an employee visit a medical adviser except where regular medical check-ups are essential for all employees for safety reasons, for example for train drivers or firefighters.

Many people may not realise that they are developing a disability or significant health condition. For example, the process may be gradual as in a progressive hearing loss. It is often difficult to adjust to the onset of a disability and, in some instances, people may hope that the difficulties will just go away. Another reason an employee may be reluctant to disclose a disability or health condition is because they are concerned that it will lead to discrimination. This is particularly true for conditions that attract high levels of prejudice and social stigma such as HIV, epilepsy or mental health conditions.

In light of this, the best approach to take is to follow the broad outline for disability management outlined in the section on [Managing performance and disability](#).

[link to 3.27](#)

Asking for medical reports

It is acceptable to request a medical report as long as the intended purpose is both necessary and justifiable, for example to help you to retain the employee by making reasonable adjustments.

The quality of the medical advice obtained will depend on the medical adviser's understanding of the particular job in relation to the individual employee. You will need to provide the medical adviser with a detailed description of the employee's duties so that the information provided will be of practical assistance, including:

- a job description
- a person specification
- the hours to be worked and flexible arrangements if required
- an indication of the physical requirements of the job, including strength and stamina
- an indication of intellectual and emotional demands, including stress factors
- an indication of your expectations, including the key outputs for the job
- a record of sickness absences to date
- an indication of any reasonable adjustments you think might enable the person to continue working.

It will also help if you provide a pro-forma for the medical adviser to make sure the report addresses your key areas of concern. Questions might include:

- What is this person's capability in relation to this job?
- Is there any reason why this capability might change over time?
- Would the reasonable adjustments you have suggested enable the person to continue working?
- Are there any other adjustments that might enable this person to do the job effectively?
- Is there an underlying medical condition?

Use of medical questionnaires and health screening in retention

- Could medical intervention, change of medication or specialist rehabilitation help the individual to work to his or her full potential?
- If the person is unable to work now, is this likely to change in the foreseeable future?

The role of the medical adviser is to assess risks, make recommendations and provide relevant advice in relation to the employee and the specific job. Remember that, whatever the report from the medical adviser, the decision about whether or not to retain a disabled employee is ultimately always a management and not a medical decision.

Issues of confidentiality

Medical advisers have an obligation to maintain confidentiality and may not disclose the fact that an employee has a disability without that employee's express permission. The only exceptions to this will be in jobs where statutory medical conditions apply and where a failure to disclose would be in breach of the duties under the Health and Safety at Work Act 1974.

Frequently asked questions about absences related to disability

Question – Our staff are all under a great deal of pressure working to very tight deadlines. How can we be expected to carry an employee who won't be able to keep up?

Answer – When you make adjustments for an employee, you do this to enable them to do their job effectively. Whilst a reasonable adjustment should ultimately enable this to happen it is often not realistic to expect someone with a recently acquired disability or newly diagnosed health condition to be able to perform at full capacity immediately. You may need to try a number of different adjustments before the problems can be fully resolved. The expectations of co-workers therefore need to be sensitively managed during this period of transition. In addition, you may need to consider whether there are general adjustments you need to make to ensure the pressures of your workplace don't result in ill health or other problems for any of your staff.

Question – The problem is if we allow her to have flexible working hours because of her disability, surely everyone is going to want flexible working hours?

Answer – If it is possible for a disabled member of staff to have flexible working hours as a reasonable adjustment, even though not standard practice for all employees, you must consider such an adjustment.

With the recent changes to working time regulations, every employee has the right to request flexible working patterns and such requests have to be considered by the employer. In many organisations, flexible working is becoming standard for large sections of the workforce. Where the nature of the business does not allow the majority of staff to work outside of fixed hours, it needs to be explained to staff that the employee needs to have flexible working hours as a reasonable adjustment and this is in no sense a perk.

Frequently asked questions about absences related to disability

As with many reasonable adjustments, you need to communicate that your aim is to support everyone in the business to contribute and that making an adjustment is not privileged treatment but about treating people differently in order to treat them fairly.

Question – What is the relationship between sickness absence and disability?

Answer – Many disabled people are as healthy as anyone else and most sickness absence has nothing at all to do with disability or a long-term medical problem. Most disabled people who are absent due to sickness will be so for the same reasons as their colleagues, for example because of colds, chicken pox or flu, rather than for any reason related to their disability.

There are, however, three types of sickness absence that might indicate a disability or significant long-term health condition and should prompt the need to consider retention and reasonable adjustments. These are:

- long-term sickness absence of a known length
- long-term sickness absence of an unknown length, and
- regular sickness absences.

Question – How do we record sickness absence related to a disability?

Answer – It is important that all employee sickness absence records differentiate between disability and non-disability related absences. Whilst the Act does not require any employer to retain a disabled person indefinitely if they are constantly absent, there will be occasions where it might be considered reasonable to discount absences related to the disability.

For example, a policy that states that employees will only receive a bonus if they are not absent for more than a set

Frequently asked questions about absences related to disability

number of days is likely to be discriminatory against a disabled employee who needs regular but planned time off for treatment. By discounting the absences related to the disability, such discrimination could be avoided. This can only be done if accurate records are maintained.

In particular, it may be necessary to consider discounting all or some disability-related absences for the following:

- disciplinary procedures
- performance appraisals, especially when linked to bonuses, ongoing professional development and pay rises
- references – a high level of sickness absence in the past may not be any indicator of future attendance
- selection criteria for promotion
- selection criteria for redundancy.

The employee may be reluctant to disclose the real reason for a period of absence that was disability-related. However, asking on each occasion why an employee was off sick gives the employee an opportunity to disclose any disability and discuss any adjustments that might be needed. It is important to be aware that many employees will not use the word 'disabled' or consider themselves to have a disability. However, the person may still require a reasonable adjustment and meet the definition of disability contained in the Act. If it later becomes apparent that previous absences were actually disability-related, existing records will need to be amended to reflect this.

Question – What is the most appropriate way to make contact with a member of staff who is absent due to sickness? I am worried that by contacting a member of staff who is currently off sick I will be seen as putting undue pressure on them.

Answer – It should be standard policy to explain to every employee that, should they be off sick for more than two weeks, it is normal procedure for someone to make contact in order to:

Frequently asked questions about absences related to disability

- find out how they are and if there is anything the employer can do to help
- update them on developments at work
- discuss possible return dates and any reasonable adjustments they might need
- agree a time to make contact in the following week.

Staff should be asked who they would like to contact them, for example their supervisor, a colleague, someone from HR or a union representative and their preferred means of contact, such as telephone, email, letter or in person.

Difficulties will arise where this is not a pre-discussed procedure that is standard for everyone. In these cases it is easy for the absent employee to feel that you are merely checking up on them rather than being supportive and trying to facilitate an early return to work. In addition, where the employee is absent due to stress, anxiety or depression there is a danger that the employee may feel additional pressure that only serves to make the condition worse.

In light of this it will often be better if a co-worker, close colleague or union representative makes the initial contact rather than the line manager as it is more likely to be viewed as supportive as opposed to checking up.

Question – When somebody is on sick leave, at what point do we need to consider whether they are ‘disabled’ and whether they need reasonable adjustments?

Answer – If the type of sickness absence falls into one of the three categories listed earlier it is essential to consider action and reasonable adjustments as soon as possible. If the cause of sickness absence is known to be related to a disability, even if the employee is only absent for a very short time, the need for any reasonable adjustment should be discussed as soon as possible with the employee.

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Where the absence is likely to be longer, for example where someone is off work for a set period of time while waiting for, or recovering from, an operation, it is possible to plan cover and prepare a phased return to work. In many cases, it will be possible to discuss any potential reasonable adjustments with the employee prior to the actual absence occurring. These absences and the subsequent return to work are relatively easy to manage in that they can be planned beforehand.

Procedures might include agreeing in advance with the employee how they would like to maintain contact whilst they are away. For example, you could make a weekly telephone call to update them or send copies of team briefings. The purpose is not to expect them to work or take decisions whilst absent but to ensure the employee can keep in touch. It is also an opportunity for you to discuss and arrange any reasonable adjustments needed for the return to work.

A return to work interview can be used for any employee who has been absent for a long period, for example, six weeks or more. Even where the absence is unlikely to result in the need for any form of reasonable adjustment this interview is essential to bring the employee back up to speed with any developments that have occurred whilst he or she has been away. The employee then returns to his or her job without the need for any reasonable adjustments to continue working.

Where the need for a reasonable adjustment has been identified, this must be put in place. If the precise nature of such a reasonable adjustment was known in advance, it should be ready for the employees' return to work.

Unfortunately, even though the nature of the absence has enabled planning, it may often not be possible to identify effective reasonable adjustments in advance, for example where the outcome of surgery is not guaranteed. In this situation, it may be helpful to meet the employee prior to

Frequently asked questions about absences related to disability

the return to work date in order to arrange any necessary reasonable adjustments.

Monitoring and reviewing the effectiveness of the reasonable adjustment is important. Once the employee has returned to work, any reasonable adjustment should be monitored and reviewed to ensure it is actually effective. Initially, this should be done on a weekly basis for the first month and then monthly for the next three months. The timing of further reviews after the initial three months should be agreed with the employee, but must be no less than annually.

If the employee is unable to return to work at all, or no reasonable adjustment is possible, you may decide to terminate the employee's contract.

Some employees will continue to send in sickness certificates and be unable to indicate a return to work date; or dates for return to work may have passed and the employee continues to send in sickness certificates. In the interim you may need to recruit a temporary replacement or reallocate duties within the team. It is essential to maintain contact with the employee in order to increase the likelihood they will return.

Procedures for this might include ongoing contact with the employee. This will reinforce the fact that you expect them to return to work and are keen to make any adjustment they require, if you can.

Maintaining ongoing contact, in some form, with employees who are absent for long periods of time is one of the most critical elements of any retention and sickness management policy.

It takes very little time for people who are away from work to lose confidence in their ability to return to work. The Government estimates that 60 per cent of employees who are off work due to illness for more than five weeks do not return to work and, it is fair to assume, in almost all those cases there will have been no early, meaningful contact with the employer.

Frequently asked questions about absences related to disability

If the employee is unable to return to work at all, or no reasonable adjustment is possible, you may decide to terminate the employee's contract.

Question – What happens when someone needs time off periodically?

Answer – There are two kinds of periodic sickness absences which trigger the need to consider retention and reasonable adjustment procedures:

- predictable short-term absences for a specific, known reason
- unpredictable absences where the reason may or may not have a specific diagnosis or any obvious underlying cause.

In the case of predictable short-term absences, an employee may need time off every week, every few weeks, every few months or annually, for example for hospital treatment or counselling.

Most businesses will be able to plan and manage this type of absence and, in order to do so, may need to consider:

- alterations to leave entitlement
- how the absences are recorded
- effect on bonuses
- adjustments to pay or working hours
- reasonable adjustments in the workplace to reduce the frequency of future absences – for example, an employee who needs regular chiropractic treatment for a back injury may require less time off for treatment if he is also provided with an orthopaedic chair that reduces the strain on his back whilst at work.

Where unpredictable short-term absences occur often, and where the underlying cause of these absences is known (for

Frequently asked questions about absences related to disability

example a specific condition that fluctuates in its effects), there may well be a legal obligation to consider reasonable adjustments, as this may mean that someone is considered 'disabled' for the purposes of the DDA.

The difficulty arises when there is no single, obvious explanation for repeated absences and there is a danger of assuming the employee is merely malingering. To illustrate this, somebody who was subsequently diagnosed with clinical depression submitted the following sickness certificates:

8–10	October	Diarrhoea
2–4	November	Migraine
26–27	November	Diarrhoea
15	December	Nausea
22	Dec–8 Jan	Flu
14–15	January	Backache
14–15	February	Migraine

Any mixture of frequent absences like those listed above should trigger a warning that there might be an underlying condition or cause that could be addressed through the consideration of a reasonable adjustment.

The employee may not themselves be aware that there is an underlying impairment, for example with early onset diabetes or the start of a mental health problem. Alternatively, there may be other issues which, although not related to disability or a long-term health condition, are causing the absences yet could also be addressed through an adjustment, such as flexible working hours. Examples of this could be such things as alcohol dependence, the death of a family member or friend or the break up of a long-term relationship. Just as in the case of disability, a positive display of flexibility, in this case for a defined period, is likely to result in a loyal and appreciative member of staff who is able to return to previous levels of performance.

After a high level, or frequent number, of absences has been identified, you should arrange a meeting to discuss the

Frequently asked questions about absences related to disability

reasons for this. This should trigger the disability management procedure.

Question – How do we define long-term sickness absence?

Answer – Long-term sickness should be defined as six weeks or over, where the absence is continuous. Where it is made up of regular absences we would recommend a cumulative total of no less than 20 days. Using this definition means much earlier intervention on the part of the employer – significantly increasing the likelihood of a successful, managed return to work.

Question – A member of staff has been taking sporadic but frequent short-term sickness absences. Their attendance record is now very poor, can we just sack them?

Answer – There will be occasions when dismissal for poor attendance might be appropriate. However, whether or not it will be appropriate or can be justified in a particular case will depend on a number of factors. For recommended procedures in this situation see section – [Terms and conditions of employment and employment benefits](#).

[link to 3.19](#)

Question – Is it all right to discuss rehabilitation with an employee whilst they are receiving sick pay?

Answer – If a person is off work and in receipt of sick pay, they are certified as unfit for work. This means that, technically, if the employee begins a period of phased rehabilitation whilst still in receipt of sick pay it may affect their entitlement to benefits. Likewise, there may be implications for the employer's insurance if an employee who is certified as unfit for work is undertaking rehabilitation or a gradual phased return to work on the employer's premises.

Frequently asked questions about absences related to disability

Question – Is it necessary to extend the period for which employees receive sick pay if they are absent for a reason relating to a disability?

Answer – The law does not require employers to provide extended sick pay for employees who are absent for a reason related to a disability and have exhausted company entitlement. It is important therefore that sick pay entitlements are clearly stated for all employees and a procedure is put in place to review the situation once standard entitlements have been exhausted. You may want to consider a best practice approach to extending sick pay – particularly if the prospects of a return to work are good.

If an employee has exhausted his or her entitlement to sick pay then you will still have a duty to consider reasonable adjustments. These could include:

- a discretionary extension of sick pay entitlement, for example where the period of continuing absence is known and is unlikely to be a significant additional amount of time
- allowing the employee to take unpaid 'disability leave' until they are able to return to work
- allowing the employee to take the additional time off as part of their annual leave entitlement.

In addition, where the employee has permanent health insurance it may be possible for this to take over the continued payment of sick pay, dependent upon the terms of the policy and the circumstances of the individual case.

Question – What is disability leave and should we provide it?

Answer – Disability leave is different from sick leave or annual holiday entitlement. In many ways it is similar to parental leave or time off for dependants although, unlike these, disability leave is discretionary rather than a right in law. It is most commonly used to allow staff paid time off for rehabilitation, assessment or treatment.

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Examples of situations where disability leave might be appropriate include:

- time off to attend annual check-ups
- medical appointments that occur unavoidably during working hours
- time off for treatment or surgery, such as chemotherapy, physiotherapy, or a hip replacement
- time off to attend physiotherapy
- time off for counselling and hospital appointments
- time off for specific rehabilitation activities such as assistance dog training or sign language training.

Where an organisation does have a disability leave policy, entitlement should be clearly stated in order to avoid confusion. Time taken for disability leave should always be recorded separately to sickness absence.

Question – What do I do if I think it is possible through reasonable adjustments for the employee to return to work but she wants to take early retirement on ill health grounds instead?

Answer – Unfortunately, this is not uncommon: it is essential to take appropriate advice before making any decisions or recommendations regarding early retirement on ill health grounds. In order to make an informed decision it is important to have:

- medical advice that indicates that the person would be able to continue working with a reasonable adjustment. [See the section Use of medical questionnaires and health screening in recruitment](#).
- advice regarding the efficacy of the proposed reasonable adjustments in relation to the specific individual and the job in question

[link to 3.15](#)

Frequently asked questions about absences related to disability

- examples, where they exist, of other employees in similar roles, with similar conditions who have been retained through the use of a reasonable adjustment.

Ultimately, the decision to provide retirement on ill health grounds will be the responsibility of the trustees of the pension fund. However, no employer should recommend ill health retirement if they genuinely believe the employee could be effectively retained with a reasonable adjustment. Indeed, making, or supporting, a claim for ill health retirement when a person could still continue to work is almost certainly fraudulent. Many people need time to adjust to a new condition or the worsening of an existing one. They are struggling at work and assume that giving up will be good for their health. In fact, a satisfying job for a decent employer is more likely to be good for their overall health.

Question – The employee is willing and ready to return to work but needs a reasonable adjustment. It is likely to take a couple of months for the adjustment to be put in place. What should we do with the employee in the meantime?

Answer – Ideally there will be an alternative role within the organisation that the employee might be able to undertake, even in a part-time capacity, and which does not require the adjustment. This would enable him to maintain contact with work whilst waiting. Alternatively, perhaps the employee could undertake some work from home whilst waiting.

Unfortunately, in many instances the employee will not be able to work at all until the reasonable adjustment is in place. Where this is the case, probably the only reasonable adjustment that can be considered is additional leave, on full pay, until the adjustment is in place and they can return to work. This special leave should not be listed as sick leave, or deducted from normal leave entitlement, as the employee is able and willing to return to work as soon as the reasonable adjustment is in place.

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Question – We want to redeploy an employee who has become disabled. What is the best mechanism for doing this?

Answer – Redeployment should only be considered if you have fully explored and been unable to find any form of reasonable adjustment that would enable the employee to return to their original position.

In order to identify a suitable position for redeployment you need to ask the following three questions, in consultation with the employee:

- Are there any other positions within the organisation to which the employee could be redeployed without any reasonable adjustments being made?
- If not, are there any other positions to which the employee could be transferred with reasonable adjustments to the post?
- If not, would it be practicable, were the employee willing, to provide retraining to enable a transfer to a completely different job?

It is important that you take active steps to find out if any of the three options are available, or could become available. Remember that if employees have the right skills, it may be reasonable to redeploy them directly, without need for a competitive process, to a more senior role.

The employee should be given preference over any other potential candidates for positions that would enable him or her to be effectively redeployed. This means that they should not have to compete with other employees who might wish to apply for the available position, even where there is an internal mechanism that would normally require candidates to apply and undergo a competitive selection process.

Under the DDA you are not required to create a new job for someone who cannot return to their original position, or be

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redeployed, after reasonable adjustments have been considered.

Question – We have found a position the employee could be redeployed to, however the line manager and other staff are worried that we are just dumping someone on them who won't be able to do the job.

Answer – This is a frequent concern in cases of redeployment, and needs to be addressed in the same way as an employee who is returning to the same position, where concerns are being expressed by colleagues. Everyone has limitations in terms of the range of roles that they can undertake. Try to focus other staff on the skills of their colleague and their desire to continue making a contribution to the company.

Question – Owing to the nature of her disability the employee is no longer able to do her original job however there is another job to which she could be redeployed. Unfortunately, this is at a lower grade than her previous role. Do we still have to pay her the same salary as before?

Answer – There may not be a legal requirement to continue to pay her at the higher rate if she is being redeployed to a role at a lower grade. However, you would need to be able to show you had fully investigated alternative forms of reasonable adjustment to retain her in her previous role and that:

- no such reasonable adjustment was possible
- there was no other role, at the same or a senior grade, to which she could have been reasonably redeployed.

Should redeployment to a position at a lower grade be the only option, then good practice would suggest that it would be a reasonable adjustment, depending on the size and resources of the employer, to maintain her salary or at least to phase the reduction in salary over a six month period. This will help the employee to plan for her change in financial circumstances. In addition, it may be useful to provide the employee with some

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additional time off to investigate entitlement to tax credits or additional benefits that could make up the shortfall in income.

Question – Other colleagues who have been covering for a member of staff who has been absent for some time have become resentful and have indicated that they are not keen for him to return to work. How should I manage this?

Answer – If these concerns are not addressed openly, the team could simply sabotage or undermine any attempts the employee makes to return to work. This is especially so where the colleagues are not aware of the precise nature of the absence and believe he was merely ‘skiving’. This type of sabotage can happen in a number of ways including:

- having low expectations and not trusting the returning employee with any meaningful work
- only providing the employee with menial tasks
- isolating the employee
- making unreasonable demands and then claiming he or she isn't up to the job
- overemphasising any difficulty the employee experiences and trying to show these difficulties only arise because he or she is disabled and no longer fit for work.

It is essential that you meet with the employee's colleagues as soon as you become aware of their concerns. You will need to explain clearly any planned adjustments, such as a phased return to work, and their responsibility for supporting such adjustments. Most importantly, you should explain that the reason you are making adjustments – and would do so for them – is in order to be fair and to enable them to work to their full potential. You may also need to emphasise that treating the person badly may well constitute harassment and leave them personally open to a challenge of discrimination under the Disability Discrimination Act.

Frequently asked questions about reasonable adjustments

Question – We have put in place a reasonable adjustment that we think is effective. However, the employee says it is not good enough. What should we do?

Answer – You need to check whether the reason for this is that the reasonable adjustment really isn't as effective as you thought, or that it is effective but not the one the disabled employee would have preferred, or that the employee is just being unreasonable.

You should:

- Personally review the reasonable adjustment with the employee and line manager or supervisor in order to identify the concerns.
- Look at how it's working and try to understand why the employee thinks the adjustment is not good enough.
- Discuss alternatives that could address the difficulties identified.
- Implement the new reasonable adjustment, if relevant.
- Review effectiveness on a regular basis.

Where it is apparent that the only reason the employee is dissatisfied with the existing reasonable adjustment is because they would have liked something 'better', although not actually more effective, there is no reason to change the existing arrangements. If the employee is unhappy with this decision and wishes to challenge it, it may be appropriate to seek independent advice and assessment. This can be arranged with the local disability employment adviser who can be contacted through the job centre. The Employers' Forum on Disability can provide contact details of other organisations and individuals who may be able to offer independent advice and assessment.

It is important to be aware that a reasonable adjustment that has worked effectively for the same employee for years may stop being as effective as the person's disability or health condition changes or as the nature of the work itself changes.

Frequently asked questions about reasonable adjustments

In addition, as technology and expertise improves, more effective and convenient reasonable adjustments may become available. It is essential that all arrangements for reasonable adjustments are reviewed on a regular basis.

Don't assume that the same reasonable adjustment will be equally effective for two employees with the same or very similar disabilities or health conditions. People may have very different but equally effective ways of addressing the same challenges at work. Each case needs to be managed individually.

Question – Who pays for the cost of the reasonable adjustment?

Answer – Most reasonable adjustments attract no direct cost. Where they do, this depends on the scale of the cost, the employee's work record and your resources as an employer.

There is financial support available via the Access to Work (ATW) scheme, run by Jobcentre Plus. This scheme provides help towards extra costs incurred by employers in employing a disabled person. The support that can be provided is significant, with the actual levels of funding available being dependent upon the employee's employment status.

- For unemployed people starting work or those who have been with the employer for less than six weeks, ATW will pay 100 per cent of all approved costs.
- For employees who have been with the employer for six weeks or more, ATW pays up to 80 per cent of the cost of a reasonable adjustment between £300 and £10,000 and 100 per cent of the costs above £10,000.
- ATW also pays 100 per cent of the approved costs of support workers, fares to work and communicator support at interviews – regardless of the employment status of the disabled person.

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Not everyone who might benefit from adjustments that attract a cost will be eligible. For employers with significant resources, it may be good practice to pay for some adjustments. Further information about the Access to Work scheme can be obtained from the disability employment adviser at your local job centre.

Question – What types of reasonable adjustment should we consider?

Answer – You need to consider anything that would enable the employee to continue working effectively for you, subject to:

- cost
- disruption
- effectiveness
- the employer's resources
- practicability
- the availability of financial or other help.

There are three kinds of reasonable adjustment that might need to be considered, individually or in combination.

Working arrangements. This is the way the work is done, managed or organised. For example, if it is not possible or extremely difficult for the employee to attend meetings away from site, providing teleconferencing or video-conferencing as an alternative. Another example would be to allow the employee to work from home some or all of the time, in order to avoid or cut down on the health impact of travelling.

Working hours. Altering the times the employee works to accommodate time off for treatment or rehabilitation. This could vary from full-time flexible working, through to part-time or job-share arrangements.

Other arrangements. This type of reasonable adjustment includes everything from equipment and personal assistance through to major alterations to the building. In reality, the most common reasonable adjustments in this category are

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likely to be such things as orthopaedic chairs, ergonomic keyboards and computer software.

Examples of reasonable adjustments given in the DDA that you might need to consider are:

- making adjustments to premises, such as ensuring corridors and gangways are free of clutter, installing a grab rail or improving signs
- reallocating some of the disabled employee's tasks to another person
- transferring the disabled person to fill a vacancy
- altering working hours
- assigning the disabled person to a different place of work
- allowing absence during working hours for rehabilitation, assessment or treatment
- giving or arranging training
- acquiring or modifying equipment
- modifying instructions or reference manuals
- providing a reader or interpreter
- providing supervision.

Question – An employee claims she is being unfairly discriminated against because we did not make a reasonable adjustment for her. However, she did not tell us that one was necessary. What should we do?

Answer – In theory you will not have discriminated against the employee if there was no reason for you to know that she had a disability. However, the situation becomes more complicated if:

Frequently asked questions about reasonable adjustments

- you might reasonably have been expected to know, or
- the employee had previously disclosed the existence of a disability, in confidence, to somebody in the occupational health or HR department. In this case, the employer is deemed to have known the employee has a disability if a subsequent court case established that she was disabled under the terms of the DDA.

When this situation arises, there are three questions you should consider in order to work out the legitimacy of the complaint and address it.

- **Why does the employee believe that she is being unfairly discriminated against?** For example, has she been taking frequent absences from work? Or is her performance at work unsatisfactory, and is she being threatened with disciplinary action?
- **Is the underlying cause related to a disability?** For example, the absences have been due to depression or a back injury. If this is the case, then it is possible that she is being discriminated against for a reason related to disability.
- **How could a reasonable adjustment overcome the existing difficulties and prevent any future discrimination?**

In most cases, rapid resolution of the complaint will avoid the need for costly litigation.

Question – Owing to pressures of work, we have developed a long hours culture. Surely it wouldn't be reasonable to expect us to alter working hours for one member of staff as a reasonable adjustment?

Answer – Failure to adjust working hours may be extremely difficult to justify. The reality is that altering working hours is likely to be considered a reasonable adjustment for most employers. It should also be borne in mind that if the employee works fewer hours, as a reasonable adjustment, you may also need to consider altering existing working

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practices to support this in order to ensure the employee is still able to work effectively. For example, if the employee needs to leave at 5 pm each day, meetings at which he would normally be present should be scheduled to finish before this time to ensure he is still able to contribute.

Question – Who is responsible for investigating and implementing a reasonable adjustment on behalf of an employee?

Answer – The ultimate responsibility lies with the employer. Whilst many people with a disability or health condition will know what adjustments they need, many will not. Indeed, many employees will not even have heard the term ‘reasonable adjustment’, let alone understand the concept. This is particularly likely where somebody has only recently acquired a disability or health condition. You should not rely on the employee being able to suggest suitable reasonable adjustments without advice.

It is equally important not to rely solely on the recommendations of medical advisers or general practitioners. Whilst they may know a great deal about the medical aspects of a particular condition, they are unlikely to know very much about the requirements of a specific job.

In practice, whilst the responsibility lies with the employer, for any reasonable adjustment to be effective, the investigation, implementation and review should be a collaborative process. It must include:

- The employee.
- The employer (generally, although not always, the line manager or supervisor).

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In addition, it may be necessary to involve one or more of the following:

- The medical adviser – especially where there are health concerns or a longer-term prognosis indicates changing needs.
- The disability employment adviser – especially, although not exclusively, when support from Access to Work is sought.
- HR – where guidance is needed on a change to working practices and any likely effect on terms and conditions, or there is a need to amend existing policy.
- External expertise – for example, where it is necessary to adapt existing software or hardware to enable the employee to continue working effectively.

Question – The nature of our work is that we have very fixed procedures for doing things. Can we justify not making a reasonable adjustment because it would be impossible to change these procedures?

Answer – A basic rule of thumb considering reasonable adjustments will be that authority for implementation should reside with line managers, whilst authority for refusing adjustments on the grounds that they aren't reasonable should always be at the highest level.

There are some jobs that genuinely require very fixed procedures, particularly those where doing things in a set way is safety critical and any change could result in injury to the employee, co-workers or customers. Where this is the case, and the procedures have been thoroughly reassessed without any possible changes being identified, it is likely that not making an adjustment to the job could be justified as reasonable. However:

- Never assume that an existing procedure cannot be adjusted or amended without proper investigation.

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- Be aware that you still have a duty to consider other forms of reasonable adjustment for the employee, such as redeployment or retraining.

Above all, your responsibility is to investigate a reasonable adjustment for the person rather than to a job.

Question – We want to implement a reasonable adjustment but it appears to be in conflict with practices negotiated with our trade union. What should we do?

Answer – There may be instances where the trade union has agreed that specific working arrangements or shifts should be allocated on the basis of seniority, for example to those employees who have been employed the longest. The conflict arises when, as a reasonable adjustment, you want a disabled employee who does not meet the normal 'seniority' criteria to be allowed to work one of these shifts or to take up a specific working arrangement. The result is that not only do other workers believe the disabled person is being given more favourable treatment but, as importantly, the employee who would otherwise have benefited is now being treated unfairly. In this case, it is important to explain that the only reason for this is to enable an employee who might otherwise lose their job to continue working.

Trade unions have the same obligations as employers not to discriminate against disabled employees and, in most instances, will be more than willing to support such a reasonable adjustment.

Question – We wish to redeploy an existing employee and have found an appropriate position. How do we deal with management assumptions about the redeployed employee?

Answer – Many managers are wary about taking on an employee who has been redeployed to their department for a reason related to a disability. They may have negative assumptions based on the belief that the employee will

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experience higher levels of absence, require more support and be less productive. You should meet with the manager and allow them to voice any concerns they have and address them openly and honestly.

In particular, you should:

- Explain why the employee is being redeployed.
- Explain any arrangements for reasonable adjustments that have already been agreed.
- Discuss any additional reasonable adjustments that the manager thinks would be useful in supporting the employee.
- Reiterate company policy.
- Agree any additional support the manager feels is necessary to support them in managing the redeployed employee.
- Agree a date to meet and review the redeployed employee's performance with the manager and address any outstanding concerns that the manager still has.

If these concerns are not addressed, then it is possible the manager may consciously or subconsciously sabotage the redeployment, most commonly by:

- having low expectations and not trusting the redeployed employee with any meaningful work
- only providing the employee with menial tasks
- isolating the employee
- making unreasonable demands so as to demonstrate that he or she isn't up to the job
- overemphasising any difficulties the employee experiences and trying to show the difficulties only arise because he or she is disabled and not fit for work.

Question – Who is responsible for insuring support workers on the employer's premises?

Answer – Where an employee has a support worker, either through Access to Work or via a local supported employment

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agency, your employer's liability insurance should cover them whilst at the workplace.

Question – Is the Data Protection Act relevant?

Answer – Under the Data Protection Act (DPA), you have a duty to safeguard the confidentiality of any employee's personal or medical information. A breach of this may not only be in contravention of the DPA but could also lead to a charge of discrimination under the DDA.

If you know that an employee has a disability or health condition that they wish to remain confidential, disclosure should only occur when:

- it is absolutely necessary
- you have the explicit consent of the employee
- it helps to facilitate the person's ability to do the job.

In light of this, it is important that you only record medical and personal information in a format that cannot be accessed inappropriately by other members of staff. Under the Data Protection Act, the employee should be told who else will be able to access this information and must have agreed to this in writing.

Question – Can we relocate the employee to another place of business?

Answer – There are two situations where you may wish to do this. The first being because the job itself is being relocated and the second because you have found another job, at a different location, that would enable the employee to be retained.

In the first instance, you need to discuss the move in advance with the employee and ensure that any necessary reasonable adjustments are in place before the move. You may need to pay particular attention to the need for new travel arrangements and any additional support the employee might

link to
section 4.1
Access to
Work

need, such as fares to work – [click here](#) for section on Access to Work. In addition, you should provide the employee with adequate time to visit the new site in order to identify any additional reasonable adjustments that may become necessary.

In the second instance, if the only possible way to retain the employee is redeployment to another job at a different location, this is likely to be a reasonable adjustment. Again, it will be essential to provide sufficient opportunity for the employee to visit the new location and identify where additional reasonable adjustments might be necessary.

Question – What are our responsibilities if the only reasonable adjustment involves the employee working from home?

Answer – If the most effective way of retaining the employee is by allowing them to work from home, you will have exactly the same responsibilities as if they were working on your business premises. In particular, you will remain responsible for:

- health and safety
- the provision of all necessary equipment and resources needed for them to work effectively.

You will also need to be aware that, for many, extended periods of home-working can result in the employee becoming isolated from colleagues and the day-to-day business of the organisation. It is important therefore that both formal and informal mechanisms are established to ensure appropriate levels of professional and social contact can be maintained. This is less likely to be a problem where, as a reasonable adjustment, the employee works from home on an occasional or part-time basis.

Question – What if the effect of the disability increases?

Answer – Whilst most disabled people have conditions that are stable and unlikely to change significantly over time, some employees may have degenerative or progressive conditions.

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In either case, all reasonable adjustments should be regularly reviewed and amended as necessary.

In most cases, it should be possible through effective review and monitoring of reasonable adjustments to continue to retain the employee. Should any potential reasonable adjustments cease to be effective, you may need to consider terminating the employee's contract.

Disciplinary policies and practices

In order to meet your duties under the DDA, you must ensure that your disciplinary policies and practices do not discriminate against disabled employees.

Whilst you have the right to decide the rules in the workplace, you must make sure these are fully accessible and understandable to all employees. For example, this might mean providing a large print version for an employee with a visual impairment.

In addition, there may be circumstances where you will have a duty to make a reasonable adjustment to these rules by being flexible or taking a person's individual circumstances into account. For example, allowing a person with diabetes to take more breaks if he or she needs to have something to eat.

You should take harassment, victimisation and discrimination under the Act into account ([click here](#)). Your expectations and method for dealing with these unlawful practices should be explicitly stated in your policies. You must take all reasonable and practicable steps to prevent these happening, make these a disciplinary matter and make employees aware that such complaints will be taken very seriously.

Best practice will involve early intervention and taking a sensitive, informal approach before taking more formal measures. While harassment, victimisation and discrimination must never be ignored and always taken seriously, an approach that fosters understanding of disability is preferable to instantly adopting disciplinary measures.

Discipline and disabled people

In judging what is a disciplinary matter, you must take account of whether the inappropriate behaviour or misconduct in question relates to disability. Generally, while there may be rare occasions when this may be linked to the symptoms of a particular condition, perhaps during an acute phase, the

[link to 2.1](#)

types of behaviour that require disciplinary procedures will not be a result of disability and can, therefore, be dealt with in the normal manner.

However, you must take account of your duty to make reasonable adjustments if disciplinary proceedings are necessary against a disabled employee:

- when giving written notices or other communications, you must take account of the accessibility of this information
- you must make sure the employee understands every aspect of the procedure and its implications.

Poor performance, discipline and dismissal

Where a disabled employee has poor performance, you can discipline or dismiss them in circumstances where you would give the same treatment to another employee. However you must determine whether the poor performance relates to disability. If this is the case, you can only discipline or dismiss the disabled employee if you can show that this treatment is justified and:

- steps have been taken to identify and implement reasonable adjustments to enable the disabled employee to perform adequately in the job. This would include looking at the possibility of redeployment. (See the section on [Managing performance and disability](#).)

Before taking steps to dismiss an employee, you must also consider the factors determined by the Employment Rights Act 1996:

- whether the employee's condition is likely to improve and, if so, how long this will take
- whether the employee's job can be covered if they are absent from work or, if the employee can only work at a reduced capacity, whether changes to duties and other workplace arrangements would enable the employee to return to work.

[link to 3.27](#)

[link to 3.29](#)

[link to 3.30](#)

(See the sections on [Frequently asked questions about absences related to disability](#) and [Frequently asked questions about reasonable adjustments](#).)

Where reasonable adjustments cannot be implemented, and you have evidence to show this, the employee should be warned of the possibility of losing his or her job in writing.

Frequently asked questions about discipline and dismissal

Question – Can we never discipline a disabled employee?

Answer – All staff, regardless of disability, should be subject to the organisation's disciplinary policies and procedures. However, as a reasonable adjustment, there may be occasions when you will need to consider the way in which these policies are implemented with regard to a particular employee. For example, if a specified number of absences from work would normally invoke the disciplinary process, you should discount those absences that are disability-related.

Likewise, if performance in the workplace is unsatisfactory, before initiating a disciplinary procedure you must ensure that this is not for a reason related to the person's disability and that there is no reasonable adjustment that would enable them to improve performance.

Should it be appropriate to discipline a disabled employee, it is essential that you ensure the process itself is fully accessible. In practice, this may mean changing standard procedures as a form of reasonable adjustment. Examples that you may need to consider, include:

- providing information in an accessible format for an employee who is blind
- arranging for a qualified sign language interpreter to be present for an employee who uses BSL

- allowing an employee with a learning disability to be accompanied by an advocate or support worker.

It is not uncommon for employees in general to be disciplined for reasons related to unacceptable behaviour. Where you are considering disciplining an employee for such behaviour you must assure yourself that the behaviour really is unacceptable and not merely unusual. This is because some people with learning disabilities or mental health problems may, on occasion, behave in unusual ways that, when looked at objectively, are just unusual and not unacceptable at all.

Question – What if an employee refuses or forgets to take medication and this affects his performance?

Answer – If the employee is experiencing difficulty in remembering to take his medication, there are a number of simple steps you and he can take together to address this problem. For example:

- a digital watch with an alarm setting that goes off at the times medication is due
- setting an alarm call on his mobile phone
- setting reminders on a computer diary
- allowing regular breaks to take medication, such as insulin.

The situation is much more difficult where the employee refuses to continue taking medication that stabilises or helps him manage his condition when he is at work – perhaps because the side effects are very unpleasant. As the employer, you have a duty to support your employees wherever reasonable but you cannot be responsible for ensuring a member of staff takes prescribed medication. In a situation where the employee's performance, attendance or behaviour becomes unacceptable and cannot be overcome through any other reasonable adjustment, this becomes an issue of capability.

Question – Do we have to make adjustments to the disciplinary process?

Answer – Any aspect of the employment process, including disciplinary, may be subject to the need for reasonable adjustments in a specific case. Whilst most disabled employees will be able to access the existing disciplinary process without the need for any reasonable adjustment, some may need a reasonable adjustment in order to ensure the procedure is fair.

In particular, you may need to consider the following:

- Location of meetings – are they accessible to the employee?
- Timing of meetings to ensure there is no clash with such things as time off for treatment.
- Do written warnings and other written information need to be provided in alternative formats?
- Does the employee require any equipment, such as an induction loop?
- Does the employee need a qualified sign language interpreter or an advocate?
- Does the employee fully understand the procedure, for example if they have a learning disability?

Question – What if the disciplinary process appears to exacerbate an underlying disability or health condition?

Answer – Disciplinary processes are likely to be highly stressful for everyone concerned. In some instances, particularly where the employee is known to have a stress-related illness or condition, this process has the potential to exacerbate the effects of such a condition. Likewise, the effects of many physical conditions such as back pain can be significantly worse if the employee is exposed to extra stress. Whilst this does not mean that you should not discipline the employee it does mean that you may have to consider reasonable adjustments that might prevent or lessen the likelihood of the process exacerbating the condition.

In extreme circumstances, the increased anxiety or effects of the condition may result in the employee being unable to attend a disciplinary meeting due to sickness absence. If this continues to be the case, it may be necessary to consider adjourning the disciplinary proceedings, as a reasonable adjustment, until the employee is well enough to attend. This does not mean, however, that such proceedings should be postponed indefinitely – whilst the onus will be on you to investigate reasonable adjustments, a successful outcome can only be achieved with input from the employee.

Question – Do we have to make adjustments whilst the disciplinary investigation is underway?

Answer – The purpose of a disciplinary process is to address unacceptable behaviour, performance or attendance. If, during the disciplinary investigation, it becomes apparent that the issue being addressed could have been prevented through a reasonable adjustment the investigation should immediately be suspended. The reasonable adjustment should be implemented, monitored and reviewed. Only if the reasonable adjustment, and any alternatives, don't address the issue should the disciplinary process be continued.

Question – In the case of prolonged absence, what happens if, after investigating and discussing an employee's absences and possible reasonable adjustments, you feel that you can no longer hold the person's job open or offer a suitable position and that the employee's absence is just a straightforward disciplinary matter?

Answer – In this case, there is no alternative other than terminating the contract of employment. If the employee is part of a pension scheme, it may be appropriate to discuss the possibility of early ill health retirement. Likewise, if the employee has private health insurance, they may be able to make a claim and this should be discussed.

Question – How do we dismiss a disabled employee for reasons of capability?

Answer – There may be instances where you believe that a particular employee's capability is so unsatisfactory that you have no option but to dismiss them.

Where this is the case, any assessment of capability must take into consideration:

- Whether or not a reasonable adjustment would enable the employee to return to work, or work more effectively.
- Whether there is a more appropriate role into which they could be redeployed.
- If the dismissal is for lack of attendance, is the employees condition likely to improve and, if so, when would they be able to return to work?

If there is genuinely no effective reasonable adjustment or the employee is unlikely to return to work in the foreseeable future, dismissal is likely to be legal. However, in such situations, you would be wise to seek legal advice.

Many people think that they don't know any 'disabled people' or that disabled people never apply for jobs at their company. This can make people anxious about meeting or working with disabled colleagues.

In reality, there are about 10 million people in Great Britain who fall within the Disability Discrimination Act's definition of disability – although around half won't use the term to describe themselves. On the basis that one in five of the working age population is disabled, you are likely to already have employees who are disabled or who have a long-term health condition. Many of these people will not know they fall within the definition, or consider themselves to be disabled, but they still have rights under the Act.

The following suggestions will help you to approach disability with confidence and in ways that support disabled people, rather than with irrational anxiety. If you pause to think, the issues will seem less frightening. Instead of thinking about your own fears, concentrate on making the other person feel comfortable and at ease.

Supporting disabled colleagues

At times, some disabled people may need extra support – many people do for one reason or another, such as a family crisis like a bereavement or divorce or difficulties with childcare. You need to consider that no one in your organisation should treat a disabled person unfairly because of their disability. You need to make clear to people in your organisation that making fun or being unkind to someone because of a disability will amount to unlawful harassment or victimisation and could result in trouble for them and their employer.

Disabled colleagues who do need support may have had their disability since birth or may have acquired their condition – perhaps as a result of illness or injury. Whatever the cause and the effect, and however long they have had to get used to it,

living with a disability or health condition can be challenging for the person concerned. This is especially true when they are faced with other people's negative reactions – embarrassment, underestimating people's potential, being afraid because someone has a mental health diagnosis.

Your attitude to disability and how you behave towards the person concerned will play a big part in determining just how big this challenge will be. In particular, an open and supportive environment in relation to people's circumstances will encourage people to discuss their needs and can help to identify problems early.

Avoiding making assumptions

Here is some useful guidance that you can share with colleagues:

- Don't assume that because someone doesn't look disabled, they aren't disabled.
- Don't assume that because you don't know of any disabled people working within your organisation, there are none.
- Don't assume that most disabled people use wheelchairs.
- Don't assume that people with learning disabilities cannot be valuable employees or that they can only do entry level jobs.
- Don't assume that a person with a mental health condition cannot do a demanding job.
- Don't assume that all blind people read Braille or use assistance dogs.
- Don't assume that all deaf people use sign language.
- Don't assume that because a disabled person may have less experience (in paid employment) than a non-disabled person, they have less to offer as an employee.

Behaving appropriately

You probably don't need the advice in this section but you could use it to talk to colleagues if you have concerns about how they are treating a disabled colleague.

- Never ask a disabled person what is 'wrong' with them. It is rude and intrusive.
- If a disabled person is with someone else, always talk directly to the disabled person, not through the other person.
- When talking to people with learning disabilities, always use appropriate language for the age of the person you are talking to. Avoid complicated sentences and give the person time to give a response. Be prepared to rephrase your sentence if necessary.
- Never take part in joking about a person's condition. This kind of behaviour should be challenged as it amounts to discrimination.
- Ask disabled people if you think they probably need help. Never take control without consent and until you understand what help is needed. Don't be offended if your help is declined.

For people who are deaf or hard of hearing the following points should be considered:

- If a deaf person lip-reads, face them and speak clearly and slowly without exaggerating mouth movements.
- Ordinary facial expressions will help understanding, so keep in the light and keep your hands away from your mouth and face.
- Remember that deaf people rely on vision instead of sound. If there is a power cut or if an audible warning is given, make sure the person understands what is happening and has help if needed.
- Don't shout. Write notes if you are having trouble making yourself understood.
- If you work with a deaf person, learn to finger spell. Find out more about this at: www.rnid.org.uk

[link](#)

- Some deaf people use sign language as their first language. Qualified interpreters should be provided, as required, for events such as interviews, training and conferences. Always check whether people use British Sign Language (BSL) or Sign Supported English (SSE) before booking interpreters. Contact RNID for more information. (See the section on [Disability organisations](#).)
- The Access to Work scheme can provide support for deaf people, both at interviews and in the workplace. ([Click here](#) for more information.)

For people with hidden disabilities and health conditions take into consideration the following points:

- Many people have hidden conditions such as arthritis, epilepsy, mental health problems, cancer or ME. Just because a condition isn't obvious doesn't mean that it doesn't have an impact on someone's life or that they don't face prejudice or other barriers.
- People with hidden conditions may need reasonable adjustments.

For people with disfigurements take into consideration the following points:

- Avoid staring at people with disfigurements but do look them in the eye if you are talking to them.
- If you unexpectedly meet someone with a disfigurement, especially to the face, it can be disconcerting. They will see your reaction and will have to cope with that. If you feel your first response was negative, try to get over that with a friendly word and a smile.

For people with impaired mobility take into consideration the following points:

- Open doors, move chairs and try to make moving about as easy as possible.

[link to section 4.2](#)

[link to section 4.1](#)

- Offer to carry heavy objects if this is appropriate.
- If the person uses a wheelchair, never lean on it as this is an intrusion of the person's personal space. Try to get to the same eye-level as the wheelchair user or step back so that they do not have to look up at you. Never grab the chair and push it without being asked.

For blind and partially sighted people take into consideration the following points:

- When welcoming the person to a strange room, tell them where the key features are positioned, including obstacles. When introducing people, give an indication of relative positions to yourself or to the blind person.
- Ask the person what they would like you to do when offering help. They may want to take your arm. Guide them, telling them about changes in floor level and other obstacles as these arise.
- When guiding the person to a chair, put one of their hands onto the back and tell them it is a chair.
- Remember that the person may have no visual clues during conversation, especially in groups or meetings, so say his or her name when asking a question or making a comment. Likewise, introduce all those present at meetings and ask them to say their name before speaking.
- Always tell the person when you, or someone else, is entering or leaving the room.
- Where information is being communicated, ensure that it is also available in an appropriate format for blind people. Ask about their preferred format in advance. For example, PowerPoint presentations or handouts may need to be made available in Braille or text-only versions.
- Where presentations are largely visual, for example when using slides, make sure the presenter reads or describes everything as it appears on the screen.

- If the person has an assistance dog, don't pet it or make a big fuss about how 'amazing' it is. People get tired of others finding their dog more interesting than they are and having the same conversation with people they know and with strangers many times in a day. If the person is staying for a while it may be necessary to arrange for a bowl of water for the dog and a place for it to relieve itself.

For people with mental health problems or anxiety conditions take into consideration the following points:

- Avoid putting pressure on the person by trying to hurry them to do something or to make a decision.
- Be prepared to write information down so that the person can refer to it again later.
- Offer the option of a quiet place to wait or work, if someone says they get anxious in busy or unfamiliar surroundings.

Inaccessible communication is a significant barrier for many people. It can make it difficult for people to find out about work and to apply for jobs – even though with adjustments they are capable of doing the work. It can also mean, in work, that people struggle to keep up to date with developments – which can have an impact on their performance and behaviour.

For this reason, you should consider the ways you communicate with people, both internally and externally. As well as considering potential and current employees, it is sensible to think about how you communicate with your clients and customers and to build good practice in accessible communication into normal working practices.

Many standard methods of communication rely on vision, hearing, speech and unnecessarily complex ideas (many also have highly specific British cultural references that can exclude recent immigrants). People with visual impairments or those with learning disabilities, for example, may not be able to read printed text and people with hearing impairments or those with speech impairments may not be able to use a standard telephone or pick up on informal information shared in the workplace.

Written communication

Not everyone can read standard text formats. For example, people with visual impairments may not be able to read standard print and, depending on the nature of the disability, their preferences and their access to technology, may need large print, Braille or information that is presented electronically so they can access it via their PC.

In circumstances where you have made arrangements that call for writing, be flexible if this causes difficulties for disabled people – maybe as a result of visual impairment or restricted manual dexterity. Be prepared to ask a member of staff to write down the person's answers. Allow people to bring and use their own writing equipment.

People with learning disabilities may need information presented in plain English, perhaps with visual clues in the form of pictures or symbols. Simplifying your information will also make it more accessible to employees and customers whose first language is not English.

Providing accessible formats

Your organisation needs to know how to arrange information in accessible formats. You should also include a statement to this effect on all correspondence with employees and customers.

Relevant staff should know about the availability of alternative formats and the process for supplying these to disabled people. They should also be clear about the timescales for fulfilling requests for the following common alternative formats.

Large print – Large print is accessible for many people who have visual impairments with some residual sight. The easiest way to produce large print is by working with a document file to increase the point size of the text and printing out a document over a bigger number of pages. The standard size for large print is 16 point size font which should be in a sans serif script such as Arial, although some people may need a larger font. This document is produced in 14 point size Arial font.

Take care to make sure data, for example given in tables, still makes sense when it is enlarged. Avoid blowing up copies on a photocopier, as the definition is likely to be blurred.

Email – This is a quick and easy way of getting accessible information to disabled people who have access to the internet. It is best practice to produce all application forms and other recruitment information in formats that can be easily sent and used by disabled people. Graphic formats should be avoided, as these may be inaccessible for people with visual impairments who use screen reader software.

Braille – This is a tactile method of reading and writing where raised dots represent letters on paper. Braille is being read by a decreasing number of blind people and often people will be prepared to use other formats such as information on floppy disk or via email. A Braille transcription service is offered by the Royal National Institute for Blind People (RNIB) – Business Liaison. Tel: 01733 375370. Email: businesslink@rnib.org.uk

CDROM or floppy disk – This format is increasingly popular as more blind people have access to PCs. It is cheap and quick to produce from standard materials. It is also more popular than audiotape because users can navigate more easily. Users can either increase the font size themselves or ‘read’ the text with the use of a screen reader.

Audiotape – People who do not have access to computers may need information on tape. The RNIB (see above) provides a taping service.

Easy Read – This format provides easy to read information in plain English. It is accessible to people with learning disabilities as well as others who may have difficulties with reading or understanding such as children and people whose first language is not English. [Click here](#)

Aim to agree a format that is acceptable to both you and the disabled person. For example, a person who usually uses Braille but has adapted software might not be substantially disadvantaged by using email, which would be easier for you and would avoid the time delay for the translation.

In general, you do not need to produce alternative formats in advance, but you must be prepared to supply these within a reasonable timescale. This is especially true for time-limited material such as job information with a closing date for applications, where you must allow the disabled person the same time to complete the form as is allowed to other applicants.

<http://www.drc.org.uk/publicationsandreports/publicationhtml.asp?id=286&document=0§ion=0>

Verbal communication

Some people find communication that relies on hearing or speech difficult. Others may need time to think about what is being said, or to put together a reply.

When giving contact details for job applicants include a fax number or an email address as well as your telephone number. Make sure the people who pick up these messages know how to deal with them.

When organising interviews with people with learning disabilities, let them know they can bring someone with them to offer support. This person will be able to help them understand and answer questions. When you are conducting the interview, always be patient and give the person time to think about your questions and to formulate their answers.

When organising interviews for deaf people, check whether they need an induction (hearing) loop system in the interview room. If the candidate uses sign language interpreters, check whether a qualified British Sign Language (BSL) or Sign Supported English (SSE) interpreter is required. Interpreters can be booked through the Royal National Institute for the Deaf (see below).

People with speech impairments may need extra time for interviews. Don't be tempted to try to finish sentences for them or pretend you have understood if you haven't and, if you are unsure of what has been said, say so. It may take you a while to become used to a person's pattern of speech.

Avoid holding meetings or having conversations in places with background noise. If the person lip-reads, make sure your face is not in shadow.

The Royal National Institute for the Deaf (RNID) website offers information and advice on accessible communication.

Telephone: 0808 808 0123

Website: www.rnid.org.uk

Assistive technology

Using assistive technology means using IT solutions to improve accessibility, including communication, and boost independence for disabled and older people.

AbilityNet offers information and advice on its website:

www.abilitynet.org.uk. It has a national technical centre and a network of regional centres providing practical advice to disabled people and their employers.

Telephone: 0800 269 545 (disabled people)

or 01926 312 847 (employers)

Email: enquiries@abilitynet.org.uk

The Foundation for Assistive Technologies (FAST) offers a database of research and development and promotes information about assistive technology.

Telephone: 020 7253 3303

Fax: 020 7253 8533

Email: info@fastuk.org

Website: www.fastuk.org

BT can give advice about accessible telephone technology.

Contact their Age and Disability Action team.

Telephone: 0800 800 800 (business customers)

Typetalk: 18001 0800 800 800

Electronic communication

Where online applications are accepted, or where information is given, you must ensure that all information is accessible by providing an accessible (usually text-only) option. This facility must be compatible with text reader software and must be easily identified within the screen content. It will be best practice to ensure that all staff involved in design and

developing for the Internet and for intranets used within an organisation are aware of accessibility and usability issues. (See the section on [Accessible recruitment advertising](#).)

[link to section 3.6](#)

Employers, and others who have duties under Part 2 of the DDA, have a duty to make reasonable adjustments where a physical feature of premises places a disabled person at a substantial disadvantage compared with people who are not disabled. ([Click here](#) for a definition of reasonableness.)

[link to section 2.1](#)

If you are an employer, you may need to obtain consent for changes under a lease or other binding obligation. You must remember, however, that even where you are not given consent you must still consider what other reasonable adjustments can be made to overcome the disadvantage which the physical feature causes for the disabled person.

Statutory consent

Statutory consents include planning permission, building regulations approval or a building warrant in Scotland and listed building consent. The duty to make reasonable adjustments does not override the need to obtain these consents.

The processes involved in getting these consents can take time. In the meantime you may need to take interim measures that don't need consent to overcome the disadvantages experienced by the disabled person.

Where consent is refused, it may be reasonable for you to appeal against the decision.

Building regulations and building design

The design and construction of a new building, or the substantial alteration of an existing one, must comply with current Building Regulations.

While the design and construction of a building may meet the requirements of the Building Regulations, this doesn't reduce your duty to make reasonable adjustments in relation to the building's physical features.

It will be best practice to:

- Carry out an assessment of the access needs of each disabled employee.
- Consider what changes can be made to your buildings to meet those needs.
- Anticipate the needs of disabled people generally when planning building or refurbishment works.
- Refer to British Standard 8300:2001, Design of buildings and their approaches to meet the needs of disabled people – Code of Practice ([click here](#) for more information) and guidance accompanying the Building Regulations (known as 'Approved Document M'). It is likely to be unreasonable for an employer to have to make an adjustment to the physical features of a building if it already meets the requirements laid down in these two documents.

[link to section 4.1](#)

Financial help to meet the cost of making reasonable adjustments to the physical features of your building for an employee may be available from the Access to Work scheme ([click here](#) for more information).

[link to section 4.1](#)

Premises occupied under a lease

Your terms of occupation may prevent you from making an alteration.

If the alteration is one which you propose to make to comply with a duty under the Act:

- This overrides the terms of the lease.
- You must request the consent of your landlord in writing – if you don't do this, you can't justify not making an alteration because of the terms of your lease.
- The landlord cannot unreasonably withhold consent but can attach reasonable conditions to that consent.

If your landlord holds a lease from another 'superior' lessor, they must apply for consent to the superior lessor before giving consent to you. Again, the superior lessor cannot

unreasonably withhold consent but can attach conditions to that consent. There is a procedure for obtaining consent known as the 'Leasehold Premises Regulations'.

These say that:

- Once the application has been made, the lessor has 21 days, beginning with the day on which it receives the application, to reply in writing to you (or the person who made the application on your behalf).
- If the lessor fails to reply within the time limit, it is taken to have unreasonably withheld its consent to the alteration. Where it is reasonable to do so, however, the lessor is permitted to take more than 21 days to reply to the request.
- If the lessor replies consenting to the application subject to obtaining the consent of another person (required under a superior lease), but fails to seek the consent of the other person within 21 days of receiving the application, it will also be taken to have withheld its consent.
- If the lessor replies refusing consent to the alteration, you must inform the disabled person of this and you have no further obligation to make that particular obligation – however, in these circumstances or where a lessor applies unreasonable conditions to consent, you may ask them to attend an employment tribunal if a charge of discrimination is brought against you as a result of this decision.
- You will still have a duty to make other reasonable adjustments to avoid whatever disadvantaged the disabled person.

Binding obligations other than a lease

As an employer, you may be bound by obligations other than a lease, for example a mortgage, under which the premises cannot be altered without consent. In this case:

- It will always be reasonable for you to request consent.
- It will, however, never be reasonable for you to have to make reasonable adjustments before you are given consent.

Developing people – getting the best out of all your employees

Many disabled people may have grown used to other people having low expectations of them. They may lack confidence in themselves, perhaps because they have not had the chance to take part in training and development opportunities. Others may lack confidence in other people, perhaps as a result of repeatedly finding they can't access mainstream opportunities. Because of this, you must ensure that any training your organisation provides is relevant and accessible to disabled people and is marketed as such.

Enabling employees to benefit from training is also one of the principal steps to good career development. It is very important not to make assumptions about disabled people's ability to take part in training or the benefits they will gain. Always discuss training with the person concerned and find out whether they will need adjustments to participate fully.

Marketing training and career development opportunities to disabled staff

You must make sure that disabled staff know what is being offered, that they feel they are part of the target group for training opportunities and that they know they will receive the support they need to succeed.

Consider:

- including a statement welcoming disabled people and acknowledging your duty to make adjustments in your promotional literature
- including images of disabled people on marketing literature using both mainstream and the specialist disability press to publicise and promote training opportunities – this is particularly important when colleges and employers work together to provide vocational training as a precursor to entering the workplace; for example, for specific trades' education and training (for more ideas, see the section on [Making contact with disabled people](#))

[link to 3.7](#)

[link to 4.1](#)

- networking with people who have regular contact with people with disabilities and health conditions, such as disability employment advisers at the local job centre
- using the 'two ticks' symbol on your advertising if you have signed up to use it (for more information [click here](#))
- encouraging people to take part by publicising success stories and being positive about what can be achieved.

Making training accessible

Most access problems can be overcome with a combination of awareness, knowledge, goodwill and creative thinking. Care should be taken to understand where problems might occur in relation to physical access and organisation. It will be best practice to take steps to avoid causing problems in the way the training is organised and to find out about the needs of individuals over and above these arrangements.

Participants should be asked about their needs early in the application process.

You should:

- Physically check all venues for accessibility before booking them. Do this for all venues that are used for all aspects of training and career development. This includes enrolment, all types of training and staff and team meetings.
- Pay attention to the location of public transport, car parking facilities, entrances, signage, internal corridors and stairways, training rooms, leisure facilities such as restaurants, toilets and bedrooms if the course is residential.
- Make sure that disabled participants have access to the same facilities as non-disabled participants. Also, make it plain in your literature that your venue is fully accessible as, because of past experiences, some people may assume that it is not.
- Keep a list of any problems at venues so that you can let disabled people know about these, if necessary. Where problems do exist, mention these and be as specific as possible so that the people who may be affected can make

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an informed choice. Next time you hold the training, aim to do so at a fully accessible location and let the people who have been excluded know this is available. Let managers of the venues know about your concerns and their own duties under the Act. Stop using the venues if adjustments are not made.

- Where possible, try to have a choice of venue locations. Because some disabled people may arrive by public transport, you should aim to base your training at a convenient location. Offer transport to inaccessible venues.
- Be prepared to offer a range of chair and table heights to cater for different needs. Organise an induction (hearing) loop system if you know a participant uses a hearing aid. Organise other forms of support, such as interpreters, in good time.
- Ensure that there are some chairs for those who will find standing for long periods difficult. For example, if you are having a 'drinks' reception or other event.
- Make provisions for disabled people who need to or prefer to use their own equipment.
- Organise dietary requirements in advance.

As an alternative to venue-based training, consider offering open and flexible learning – perhaps using e-learning or home-based support and tutorials. With this in mind, when you create documents, use document types that will work in other formats. Word files in rich text formats can be transcribed into Braille. They can also be 'read' by screen readers and can easily be sent by email to a distance learner. Avoid unnecessary graphic style and content as these cannot be accessed by some types of assistive technologies.

Some people with disabilities and long-term health conditions

Developing people – getting the best out of all your employees

will have had a much lower quality and range of social and educational experiences than their non-disabled peers. As a result, some are unlikely to have had the chance to develop the basic learning skills needed by any learner. You should consider offering precursor training to enable them to get the best out of training.

Be flexible about training timetables, especially with breaks, as some people may need to move around during sessions, may not have a high level of stamina or may need to leave the room, for example, to take food or medication.

Ensuring consistency

All training and support staff should understand the concept of reasonable adjustments, their duties under the Act and your expectations. This is particularly important if you use staff from outside your own organisation. All those involved should have been through disability equality training.

When you are planning training, go through the process, from marketing to organisation, delivery, testing, evaluation and review, to ensure that access is consistently taken into account.

Consider how the training is delivered and how the needs of disabled people must be taken into account.

- If flipcharts, OHPs or other visual resources are being used, the trainer must always talk through the screen content, so that people with visual impairments are aware of what others can see.
- If sound-based media are being used, think about how you can make sure these are accessible to hearing impaired people. Are training videos subtitled? Should the trainer learn finger-spelling or should a qualified sign language interpreter be arranged?

[link to 3.33](#)

- Remind yourself about accessible communication (see the section on [Accessible communication](#)). You should be able to provide all training materials in accessible formats on request. These should be available at the same time as standard materials are available to other participants.

Including people with learning disabilities

People with learning disabilities are often excluded from mainstream training provision because of wrongly held beliefs that they are incapable of learning. Given the right training methods and an appropriate level of support, people with learning disabilities can successfully take part in integrated training.

People with learning disabilities generally find experiential learning more effective than theoretical learning. In a classroom situation it will help to keep grounding theoretical content by referring to practical examples to which the learner can relate. This usually helps other learners to see practical application of the theory as well. It may also be useful to provide a support worker for someone with a learning disability – what they do will depend on the needs of the individual concerned but could involve helping with reading or writing or going through content in advance or at a later time.

Providing training to support reasonable adjustments in the workplace

Training should be given to help disabled people take full advantage of reasonable adjustments – for example, where new equipment is provided or where working practices are changed. It is unreasonable to expect they will just know how to do something differently and it is important to avoid unnecessary pressure.

Be sensitive to the feelings of disabled people who are undergoing training so that they can stay in work, for example

in circumstances where a person is being moved to a different job as part of a retention strategy. Try to make sure the person doesn't feel that they are a problem or that they are getting special treatment. Concentrate on making sure they can work effectively.

Career development

If you are a disability 'two ticks' symbol user you are already committed to carrying out some kind of career development appraisal with disabled employees at least annually. The purpose of this is to make sure they can develop and use their abilities fully.

If you have not signed up to the scheme, it is still best practice to carry out regular performance reviews to provide a chance to discuss whether someone could carry out the tasks associated with promotion or transfer. You can take a disability management approach (see the section on [Managing performance and disability](#)) to identify the what, how and when of career development for disabled individuals.

link to 3.27

Some disabled people may need help to develop confidence in their abilities to undertake management training or other promotional opportunities offered to them. When appropriate, provide targeted training specifically for disabled people, for instance, by offering proactive personal development if you want to encourage disabled people to apply for supervisor or management positions.

One common mistake is to overlook someone with a disability or health condition for promotion to management or a supervisor position because they cannot carry out some of the tasks due to an impairment. In reality, often supervisors only need to know how the task is done well and not necessarily be able to do it themselves. They are generally more concerned with satisfactory outcomes.

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In addition, there may be a duty to make a reasonable adjustment, perhaps by assigning some minor tasks of the role to another member of staff. It would probably be reasonable to swap some, which cause difficulties or are impossible, with other members of a team or department. This flexible approach means that you can capitalise on people's abilities and not be held back by unimportant limitations.

Mentoring

A mentor is a wise and reliable adviser. Mentoring is a useful way to encourage and support people's career development and can be particularly useful in providing an opportunity outside the usual line management relationship to build confidence and to explore areas of weakness confidentially.

In some cases it may be useful for the individual to be mentored by another disabled person, perhaps where that person has successfully moved up the career ladder. However, just because both people are disabled, they are no more likely to be able to relate to one another's life experiences than people who are non-disabled. For this reason all mentors, whether disabled or non-disabled, should go through disability equality training prior to becoming a mentor.

A buddy system is another type of mentoring, where a particular individual is assigned to look out for another.

- This could include working alongside someone while learning the job or providing someone to go to if there is a problem.
- This is a useful type of support system both in the short and the longer term for some disabled people. It will always be useful for a disabled person to know who to turn to if a problem arises and should prevent any problems being ignored or becoming unnecessarily difficult.
- However, the support should be regularly reviewed so that dependency is not created. A planned withdrawal should be agreed and monitored.

Disability equality training

Disability equality training provides learners with understanding, knowledge and skills to treat disabled people fairly both as employees and as customers. In bigger organisations, this type of training should be provided to all levels of management in your organisation. Supervisors of disabled employees, HR staff and trainers should also receive this training.

The Disability Rights Commission maintains a list of trainers offering this service at website [click here](#)

www.drc-gb.org/open4all/publications/publication_details.asp?id=144§ion=1

You must make sure that no policy or procedure relating to redundancy and retirement discriminates against people with disabilities or long-term health conditions covered by the Disability Discrimination Act.

Where necessary, these must be amended so that people are not selected for redundancy and retirement on the basis of any aspect that relates to disability. Criteria needing particular attention are those relating to attendance, sick leave, flexibility, skills and productivity.

A woman with ME (chronic fatigue syndrome) asks for time off to attend regular hospital appointments. The employer could legitimately ask to see a letter from the doctor or an appointment card. However, the employer then asks her questions about the likely progress of the illness so that he can bear this in mind when thinking about who should be made redundant. This is likely to be unlawful.

Whilst you can use these criteria, you must still ensure that you take your duties into account under the Act. When using these criteria in the selection of disabled people, you must be able to show that:

- These issues have a substantial and material effect on the job in question and on your organisation and business.
- You have taken steps to make reasonable adjustments to redress the effect in the case of this particular employee prior to using these criteria for redundancy selection.

Frequently asked questions about retirement and redundancy

Question – Can we offer ill-health retirement instead of making adjustments?

Answer – No, ill-health retirement is not an alternative to making a reasonable adjustment in order to retain the employee. Ill-health retirement is only an option where there is no reasonable adjustment that would enable you to retain the employee in their current role or redeploy them. Indeed,

were you to offer ill-health retirement to an employee who can be retained in employment, such an offer is potentially fraudulent in that it would be making a claim against your insurance under false pretences.

In addition, it should be noted that an employee who is medically retired could still bring a claim of unfair dismissal if a reasonable adjustment would have meant that they could be retained.

Question – Do we have to offer ill-health retirement if the employee does not want the reasonable adjustment offered?

Answer – As explained above, ill-health retirement is not an optional choice. It is there specifically to support an employee who can genuinely no longer work – with or without any form of reasonable adjustment.

The difficulty you may experience is when you believe a reasonable adjustment is possible but the employee thinks early retirement is their best option. Where this is the case, you need to weigh up the evidence presented by occupational health specialists and would be advised to seek a second opinion from an independent source.

Question – When is ill-health retirement the most appropriate option?

Answer – Early retirement on medical grounds is the final option when you have thoroughly explored all other options to retain the employee and have been unable to find any reasonable adjustment that would enable you to do this.

Question – If the employee takes early retirement what will be the effect on pensions?

Answer – This will vary with individual cases and the employee will need to seek advice from the pension fund trustees.

Under the Disability Discrimination Act (DDA), people defined as 'disabled' for the purposes of the Act are given protection from discrimination in employment. If someone feels that they have been treated unfairly for a reason related to disability, there are a series of procedures to follow to try to resolve disputes.

Step 1 – Using your own grievance procedure

Ensuring that your policies and procedures take account of your duties under the DDA is likely to minimise disputes about disability discrimination. However, if disputes do arise, your own grievance procedures should provide:

- an open and fair way for employees to make their concerns known

A woman with a learning disability is allowed to take a friend (who does not work with her) to act as an advocate at a meeting with her employer about a grievance. The employer also ensures that the meeting is conducted in a way that does not disadvantage or patronise the disabled woman.

- a means of identifying where policies and procedures may need changing, to ensure discrimination is avoided.

You should adopt a grievance procedure that:

- is included in the written terms and contracts of your employees
- makes it as easy as possible to resolve disputes by dealing with the issues promptly and as close to the point of origin as possible.

Step 2 – Using procedures set out in the Employment Act 2002

Where your own internal grievance procedure cannot resolve the dispute, you will need to follow a statutory procedure as the dispute escalates. Wherever possible, it is best practice to

try to resolve disputes within the workplace and without resorting to legal proceedings by following the statutory procedures set out in the Employment Act 2002.

This is required in respect of disputes involving employers and employees who work (or have worked) under a contract of service or apprenticeship. However, it does not apply to people who fall within the wider definition of 'employment' under the DDA, such as barristers or office holders (for more information [click here](#)) or in respect of disputes between employees and pension scheme trustees or managers or to providers of employment services.

[link to section 2.1](#)

The 2002 Act procedures apply:

- where an employer has dismissed an employee, or is contemplating dismissing them or taking disciplinary action against them; or
- where an employee has a grievance against an employer, he or she may not commence employment tribunal proceedings (including an allegation that the employer has breached Part 2 of the DDA) without first giving the employer a written statement of the reasons for the grievance.

The following procedures should be followed, remembering that, under the DDA, employers have a duty to make reasonable adjustments to prevent the disabled person being placed at a substantial disadvantage in comparison with people who are not disabled:

- the grounds for the employer's action, or details of the employee's grievance, should be set out in writing and sent to the other party
- a meeting should take place between the employer and the employee to discuss the matter and the employer should inform the employee of their decision afterwards; and
- an internal appeal against that decision should take place if the employee is not satisfied with it.

Step 3 – Resolution through an employment tribunal

If the dispute cannot be resolved internally, the disabled person can apply for resolution through an employment tribunal. Again, there is a set procedure for this.

There is a standard 'questionnaire procedure' to follow. This allows someone considered to be 'disabled' under the DDA to request information relevant to their claim from the person against whom the claim is made. A standard form of questionnaire is used ([click here](#) for how to get the form and the accompanying booklet, which explains how the procedure works.) This can be done before making an application to an employment tribunal or within 28 days of lodging it.

[link to section 4.1](#)

A disabled person who feels that an employer has discriminated against them has three months from the date of the incident to make an application to an employment tribunal. If the statutory process under the 2002 Act has been followed by a person who was required (see above) to follow this process, this is extended by a further three months.

When an application has been made to an employment tribunal, a conciliation officer from the Advisory, Conciliation and Arbitration Service (see below) will try to promote settlement of the dispute without a tribunal hearing.

However, if a hearing becomes necessary – and if the application is upheld – the tribunal may:

- declare the rights of the disabled person (the applicant) and the other person (the respondent) in relation to the application
- order the respondent to pay the applicant compensation (such as for loss of earnings)
- recommend that, within a specified time, the respondent takes reasonable action to prevent or reduce the adverse effect in question

- award compensation for injury to feelings, whether or not other compensation is awarded.

If a respondent fails, without good reason, to comply with these recommendations, the tribunal may increase the amount of compensation to be paid or order the respondent to pay compensation if this was not done earlier.

Dealing with harassment

There may be times when an employee feels he or she is being harassed because of a disability or health condition.

Harassment can include persistent, offensive, intimidating, abusive, malicious or insulting comments and behaviours that have the effect of causing distress for the victim.

If a member of staff claims they are being harassed because of a disability, or indeed for any other reason, the complaint must be handled promptly, effectively and with sensitivity. Any claim of harassment must be treated properly and not dismissed as over-sensitivity on the part of the disabled person. Many people will only complain about harassment after a long period of time, having at first tried to ignore it or to confront those doing the harassing themselves.

When investigating a claim of harassment, first consider early intervention. If dealt with swiftly, many cases of harassment can be dealt with and addressed without the need for formal grievance and disciplinary procedures. The longer the case takes to resolve, the greater the stress and the negative effect on the individual and the workplace as a whole. Intervening swiftly is a clear indication to all parties that you take such allegations extremely seriously.

Depending on the nature of the allegation and wishes of the person alleging harassment, it may be appropriate to explore an informal resolution first. Many instances of disability and other harassment are carried out by staff who genuinely don't realise that their behaviours or comments are causing offence.

This is particularly so where the nature of the harassment involves such things as nicknames or jokes. Often, merely bringing the issue to their attention will cause them to change their behaviour.

Formal resolution will be needed where the nature of the alleged harassment is very serious or where informal resolution has not worked.

If the harassment is being carried out by an individual, then you should:

- Choose the time and place to meet with them carefully, to ensure confidentiality.
- Tell them you are going to challenge them about their behaviour.
- Describe the specific behaviour that is unacceptable.
- Focus on the behaviour rather than the characteristics of the person.
- Identify exactly what you would like changed and the ways in which you expect them to behave differently in future.
- State clearly what you will do if their behaviour does not change.
- At the end of the meeting restate clearly what has been discussed and agreed.
- Write up detailed notes of the meeting, to provide a record for future reference if necessary.
- Institute a formal disciplinary procedure if the harassing behaviour does not cease.

If the harassment is being carried out by a group, the experience can be much more traumatic for the person being harassed. They are likely to feel extremely isolated with no sense of security from the moment they enter the workplace each day. Techniques for addressing this kind of group harassment or bullying include:

- Interviewing each group member separately.

- Establishing and isolating the group leader.
- If necessary, disciplining all the members of the group, with harsher measures for the group leader.
- Gaining commitment to change behaviour individually.
- Reinforcing the message that harassment and bullying are unacceptable on an individual basis as well as in the group.
- Getting each member to state their individual commitment to change behaviour in front of the larger group.
- Reinforcing the consequences if the harassment is repeated.
- Instituting formal disciplinary procedures against each member of the group if the harassing behaviour does not cease.
- Disbanding the team.

Bringing claims for discrimination relating to employment benefits

A disabled person can complain about discrimination in relation to occupational pension schemes and group insurance services by making an application to an employment tribunal if he or she feels discriminated against.

This is the case whether the allegation of discrimination is made against:

- the employer
- the trustees or managers of the pension scheme
- the group insurer in the case of a group insurance scheme.

What evidence is needed to prove that discrimination or harassment has occurred?

A person who brings a claim for unlawful discrimination or harassment must show that discrimination has occurred and be able to prove this on the balance of probabilities in order to succeed. If they are able to do this, the burden of proof shifts to the employer who must prove that his or her conduct was not unlawful.

The employment tribunal must uphold the claim if:

- the claimant proves facts from which the tribunal could conclude, in the absence of an adequate explanation, that the person against whom the claim is made (the respondent) has acted unlawfully; and
- the respondent fails to prove that he or she did not act in that way.

[link to section 4.1](#)

A fuller explanation is given in the Code of Practice ([click here](#)).

A disabled person can seek evidence about whether or not he or she has been discriminated against or subjected to harassment. The standard questionnaire procedure can be used to obtain further information from a person they think has behaved in an unlawful way.

If the person fails to give a satisfactory response, inferences may be drawn from this failure. Failure to comply with the relevant Code of Practice will also be taken into account by a court or tribunal.

Sources of help and advice

Disability Rights Commission – The DRC produces a self-help pack about making a claim in an employment tribunal and provides information about the Questions Procedure. In addition, the forms DL56 and accompanying guidance can be obtained from Jobcentre Plus offices, citizens' advice bureaux and either through the DRC website at www.drc-gb.org or from the DRC Helpline. Calls to the Helpline are charged at local rate.

[web link](#)

Telephone: 08457 622 633

Textphone: 08457 622 644

Fax: 08457 778 878

Post: DRC Helpline, FREEPOST, MID 02164,
Stratford Upon Avon, CV37 9BR

Employment Tribunals – Information about how employment tribunals work, including a facility to make applications online, are online: [click here](#)

www.employmenttribunals.gov.uk

ACAS – The Advisory, Conciliation and Arbitration Service can help employers and individuals with information on legislation and on industrial relations practices and procedures. ACAS has a Helpline service, which can be contacted on:

Telephone: 08457 474 747

Textphone: 08456 061 600

Website: www.acas.org.uk

web link

Policy amendment and development

Depending upon your knowledge of the Disability Discrimination Act (DDA), which began to come into force in December 1996 and applies to the provision of services to the public as well as to employment, you may have amended policies to take account of disabled customers or employees. You may have a separate disability policy or a diversity or equal opportunities policy.

However, some employers won't have considered disability as a policy issue until now. Taking account of your duties towards people with disabilities and health conditions in your policies means that you, your employees and your agents are clear about your expectations and their responsibilities when matters relating to disability arise. This is particularly important for employers who are involved in managing, recruiting or training and for specialists such as occupational health advisers or recruitment agents.

This type of clarity and forward thinking will help you to avoid inadvertently discriminating against disabled people in employment. You should also keep records to show that this information has been given to all employees.

What should be considered in relation to disability?

Your policies need to be clear and unambiguous without scope for interpretation that could result in discrimination towards disabled people in either recruitment or retention. You also have duties towards your disabled customers and your policies should reflect this. (For further information, visit the DRC's microsite www.open4all.org.)

web link

link to section 4.1

Generally speaking, in relation to your duties as an employer, you should examine all current policies to identify and amend any procedures or working practices that may result in you treating disabled people less favourably than you would treat other employees, for reasons related to disability. ([Click here](#) for more detailed information.)

An employer has a policy that designated car parking spaces are only offered to senior managers. A man who is not a manager and has a mobility impairment needs to park very close to the office is given a designated car parking space. This is likely to be a reasonable adjustment to the employer's car parking policy.

This is in line with your duty to make reasonable adjustments to any provision, criterion, practice or physical feature of your premises that puts a disabled person at a substantial disadvantage when compared to people who are not disabled.

An employer stipulates that anyone with an infectious disease can't work in the food preparation area. It refuses to employ someone with HIV in this area, believing him to be a health and safety risk. Whether or not the employer has a written policy to this effect, this action will amount to discrimination, as the employer has not considered the actual circumstances of the case.

This means that, in recruitment or any other type of selection process, you must not discriminate against a disabled person (including potential applicants and anyone who has notified you that they may be an applicant):

- in the arrangements you make when deciding who you will employ or select – this includes how you let people know about vacancies, how people apply, how you select a short-list, how you conduct interviews, how you make a final selection and how new employees are inducted
- in the terms on which you offer employment to a disabled person – this includes how you determine the salary, the hours, the conditions, the benefits and the duties
- by refusing to offer, or deliberately not offering, the disabled person employment.

In relation to retention (and all stages of employment including dismissal), you must not discriminate against a disabled person:

- in the terms of employment you offer – this includes how you deal with sick leave, absences relating to disability, redundancy selection, flexible work arrangements, emergency evacuation procedures, procurement of equipment and grievance
- in the opportunities you offer for promotion, a transfer, training or receiving any other benefit – this includes how you decide about the opportunities offered and how you provide appropriate support for disabled employees including appraisal and performance-related pay systems and employee assistance schemes offering financial and emotional support
- by refusing to give them, or deliberately not giving the disabled person, any such opportunity, or
- by dismissing the disabled person, or subjecting them to any other detriment.

Within your policies you must also take account of your duties to ensure that disabled people are not subject to harassment or victimisation. That duty is also extended to non-disabled people in respect of victimisation.

An employer has policies relating to harassment and disability. It ensures that all employees are aware of the policies and the fact that harassment of disabled employees is subject to disciplinary action. It also ensures that managers receive training in applying the policies. A colleague humiliates a woman with a learning disability and disciplinary action is taken against the colleague. In these circumstances, the colleague would be liable for aiding the unlawful act of the employer (the harassment) even though the employer would itself avoid liability because it had taken reasonably practicable steps to prevent the unlawful act.

In addition, you should ensure you have a well-publicised policy and comprehensive procedures for dealing with grievances and resolving disputes relating to disability.

How do you take account of disability in policies?

Many organisations have found that a planned approach is the most effective way to develop well received policies. The following series of steps may seem daunting to smaller organisations and businesses, however it is important at least to consider what needs to be done at each stage to ensure that key people are involved in developments and 'buy into' the new policies.

Step 1 – Aim to get commitment at senior level. Senior managers should understand the requirements of the DDA and the duties imposed by the Act. Agree, in principle, what needs to be included in policies.

Step 2 – Draft new policies or change existing policies as an interim measure. Disseminate these within the organisation or business.

Step 3 – Let managers and supervisors know how they should deal with disability issues when these arise. Make sure procedures are in place to support this.

Step 4 – Nominate someone to be responsible for developing and reviewing disability policy issues. This should be an ongoing responsibility as your disability awareness, disability law and good practice develops.

Step 5 – Conduct a disability audit by looking at existing systems, procedures and working practices to identify where changes are needed. These may include:

- recruitment
- line management, performance management and appraisal
- retention and redeployment
- awareness of disability issues at all levels within the organisation or business

- involvement of disabled people
- access to and within the building
- disciplinary issues.

Step 6 – Put together an action plan including:

- identifying and prioritising actions
- allocating responsibilities
- identifying costs and allocating resources
- planning a timetable and target dates
- methods of review and of identifying progress.

Step 7 – Draft the new policy, with involvement from a wide range of employees. The policy is likely to include:

- a supporting statement from a senior manager
- a clear policy statement
- guidance on the law and how the policy relates to this
- details of what the policy aims to do, why and how.

Step 8 – Circulate the new policy and ensure that it is implemented effectively by:

- letting everyone know about its development and purpose
- providing timely and accessible support for employees
- including disability awareness training and guidance for key staff, especially supervisors and line managers.

Return to step 5 – this should be an ongoing loop and conducted at regular, planned intervals.

Monitoring disability

Monitoring will help you to know whether the steps you take, when following best practice on disability, are effective. It will also help you to avoid discriminating against disabled people. Remember that many people who fall within the DDA definition of disabled will not think of themselves in those terms but they still have rights under the Act.

Having information on applicants and employees will help you to understand:

- Whether you are making progress with positive actions to employ more people with disabilities and long-term health conditions. As well as providing general information about disability for all employees, monitoring can be used to collect very specific information about one aspect of employment or about one group of employees.

A large employer's monitoring shows that, although successful at retaining most disabled employees, it is still losing people with mental health conditions. It acts on this information by contacting a specialist organisation for advice about good practice in retaining people with mental health conditions – and sickness absence for all staff is reduced.

- The proportion of disabled people at various levels of the organisation or business. This will help you to see if there is a 'glass ceiling' that makes it difficult for disabled people to take advantage of opportunities that are available to others.

Through its monitoring process, an employer becomes aware that disabled people are under-represented at management level. It decides to provide 'positive action training' for disabled employees to encourage them to develop management skills and to provide them with workplace mentors to encourage career development.

- Where further targeted action is required.

Collecting information for all employees will provide evidence of actual numbers relating to disability and disabled people. Often the response to the question 'How many disabled people apply for jobs/work for you' is 'We don't get any coming forward'. Be aware that this shows a problem. There are about 10 million people in Great Britain who have a disability or health condition that means that they are covered

by the DDA. Of these, almost 4 million are of working age and unemployed. If disabled people are not coming to you, perhaps you should look at why this is.

By monitoring the recruitment process, the manager of a small business notices that very few disabled people apply for jobs. To redress this, he contacts local disability employment projects and the disability employment adviser at the job centre about new vacancies.

Information collected during the monitoring process should be used to:

- Identify whether people with particular types of impairment are experiencing inequality and, wherever possible, what the barriers are.
- Make positive changes within the organisation or business to improve understanding and diversity.

Undertaking monitoring

You should aim to create a disability aware and supportive culture. Disabled people must feel secure about talking about disability or health issues that may have an impact in the workplace, at least with a line manager or HR officer, and about asking for support to enable them to continue working effectively. Potentially, this will reduce problems with performance, sick leave and staff turnover. So many difficult situations arise through a lack of communication.

- All employees should be monitored, including those at senior management level.
- The DRC recommends using non-anonymous monitoring because it provides a more sophisticated picture of disability in the workplace. However, because it has the potential to appear more threatening or intrusive than anonymous monitoring, this type of monitoring must be done sensitively. All employees should receive positive communications about its purpose, as well as assurances about confidentiality, well in advance of its implementation.

- Disabled people do not have to declare a disability and, because of long-held fears of discrimination, many are reluctant to do so. Because of this, questions about disability must be clear about the purpose, accompanied by a positive statement about the disability policy. A suggestion for wording follows.

Disability and Health Questionnaire

In order to make positive changes, we are addressing the different barriers faced by disabled people. Many people who do not consider themselves to be disabled may be covered by the Disability Discrimination Act 1995 (DDA) because they have a health condition that has an impact on their lives. Guidance on this is given at the base of the form.

Employees with a disability or health condition are entitled in law to 'reasonable adjustments' to address their support needs in the workplace. Therefore we are interested in any disability or health condition that may require a reasonable adjustment in order to overcome any such barriers.

Do you consider yourself to have a disability or a health condition? Yes No

What is the nature of your disability or health condition?

Do you require any adjustments in order to attend interview or to overcome specific barriers in the workplace?

If you would like to discuss your response, or are unsure of the types of reasonable adjustment that might be possible, please contact (give name, telephone number and email address of a person who understands disability issues and who is able to answer questions about disclosure).

Do you have a physical or mental impairment or long-term health condition? Is this expected to last, or has it lasted, for a year or longer? Does this make it difficult for you to do the things that most people do on a fairly regular and frequent basis? If so, you may have rights under the Disability Discrimination Act. This includes people who are receiving treatment or using equipment (except glasses or contact lenses) that alleviates the effects of an impairment or a condition, people with an impairment or condition that is likely to recur, people who have conditions that will get worse over time and people with severe disfigurements.

All requests for reasonable adjustments that are identified from the monitoring process must be backed up with appropriate procedures and dealt with quickly and efficiently. Requests must never be ignored.

The implications of the Data Protection Act 1998 must be considered before monitoring is implemented. The Act

- requires employers to ensure that all data-processing is carried out fairly and lawfully
- defines the general right for employees to have access to personal data held by their employer.

Sources of information and advice

The Disability Rights Commission provides guidance on monitoring disability on its website at [click here](#)

An example of how the government approaches monitoring is given at [click here](#)

www.drc-gb.org

www.diversity-whatworks.gov.uk/toolkit/appendix3.asp

B&Q

B&Q's overall diversity strategy reflects the company's commitment to 'Respect for People'. Managing diversity for B&Q means valuing and using the differences that people bring to the business and setting standards of behaviour based on treating both customers and staff with dignity and respect. The strategy covers age, cultural diversity, gender and disability and deals with issues relating to both employment and accessibility.

Nearly 5 per cent of B&Q's staff are disabled, according to the definition used in the Disability Discrimination Act and B&Q would like to employ more disabled people. In response to this, the company's recruitment policies and procedures have been reviewed to ensure maximum accessibility:

- Unbiased recruitment is guaranteed via an automated telephone-screening interview, which is rigorously monitored to ensure equality, ensuring that staff are recruited on the basis of talent and fit to B&Q's unique demands, rather than on disability, age, gender or ethnic origin.
- B&Q appreciate that some disabled people may experience a disproportionate difficulty in applying to work for B&Q in this way and a reasonable adjustment can be provided where appropriate.

In addition, managers have been given practical guidelines on disability, stores are issued with guidelines on the Government's Access to Work scheme and factsheets on specific disabilities and health conditions.

B&Q works with Scope on its graduate fast-track programme and provides information for stores on the Government's WORKSTEP programme, which supports disabled people who face particular barriers to getting and keeping work by providing ongoing support after recruitment for as long as is required. The programme provides disabled people with the opportunity to work, encouraging them to reach their full potential.

Disability Rights Commission

The DRC has produced a range of leaflets about the DDA, including:

- practical guides to the Act designed for disabled people and for employers
- a 'Top Tips' guide which is specifically intended to help small employers.

These are available, free of charge, online at www.drc-gb.org and can also be obtained from the DRC Helpline. Calls to the Helpline are charged at a local rate.

- Telephone: 08457 622 633
- Textphone: 08457 622 644
- Fax: 08457 778 878
- Post: DRC Helpline, FREEPOST, MID 02164, Stratford Upon Avon, CV37 9BR

Codes of Practice

Codes of Practice and accompanying guidance for Part 2 (Code of Practice on Employment and Occupation, Code of Practice on Trade Organisations and Qualifications Bodies), Part 3 (Rights of access – Goods, facilities, services and premises) and Part 4 (Codes of practice for schools and post-16 education) are available through the DRC website www.drc-gb.org (in electronic form) and through The Stationery Office on:

- Telephone: 0870 600 5522
- Fax: 0870 600 5533
- Email: book.orders@tso.co.uk
- Website: www.tso.co.uk

Guidance about making a claim

Employment tribunal application forms can be obtained from Jobcentre Plus offices and from Citizens' Advice Bureaux. The DRC also produces a self-help pack about making a claim in an employment tribunal. Information about the Questions Procedure is also available from the DRC. The forms DL56 and accompanying guidance can be obtained either through the DRC website or from the DRC Helpline (see above).

Guidance on building design

Copies of BS8300 'Designing buildings and their approaches to meet the access needs of disabled people' can be obtained from the British Standards Institute.

- Telephone: 020 8996 9000
- Fax: 020 8996 7001
- Website: www.bsi-global.com

Access audits

The National Register of Access Consultants provides a database of registered access auditors.

- Telephone: 020 7735 7845
- Textphone: 020 7840 0125
- Fax: 020 7840 5811
- Email: info@nrac.org.uk
- Website: www.nrac.org.uk

Employers Forum on Disability (EFD)

The EFD have produced a wide range of guidance to assist employers and disabled people with the implementation of the DDA.

- Telephone: 020 7403 3020
- Textphone: 020 7403 0040
- Fax: 020 7403 0404
- Website: www.employers-forum.co.uk

Equality Direct

Equality Direct provides a confidential advice service for businesses.

- Telephone/Textphone 08456 003 4444
- Website: www.equalitydirect.org.uk

Health and Safety Commission

The Health and Safety Commission (HSC) and the Health and Safety Executive (HSE) are responsible for the regulation of almost all the risks to health and safety arising from work activity in Britain.

- Telephone: 08701 545 500
- Textphone: 02920 808 537
- Fax: 02920 859 260
- Email: hseinformationservices@natbrit.com
- Website: www.hse.gov.uk

Jobcentre Plus

(including Access to Work and the Disability Symbol)

Jobcentre Plus provides information and advice to disabled people in work or looking for work. It is a first point of contact for people wishing to get help from the Access to Work scheme. Disabled people should contact a disability employment adviser at their local Jobcentre Plus office about Access to Work or about any other employment issues, whether they are in work or looking for work. Information about Access to Work can also be obtained from Access to Work business centres. Your local Access to Work business centre can be found through the Jobcentre Plus website www.jobcentreplus.gov.uk or by talking to a member of staff at a local Jobcentre Plus office. Jobcentre Plus can also provide employers with information about the Disability Symbol.

Access to Work may be able to offer advice and help on the following:

- **Adaptations to premises and equipment** – Modification of an employer's or self-employed person's premises or equipment, to enable them to employ or retain a disabled employee. Employers will be expected to contribute if adaptations bring general benefits to the business, firm, other employees or customers.
- **Communication support at interview** – Help with the costs of employing a qualified interpreter or communicator to accompany a hearing impaired person, where there might be communication difficulties at a job interview with an employer.
- **Miscellaneous assistance** – Provision under this element is predominantly in the form of one-off items of support that do not fit elsewhere, such as a grant towards the costs of deaf awareness training for close colleagues of a deaf person. Cost of travel within work is also placed in this element.
- **Special aids and equipment** – Provision of aids and equipment to a disabled person which a non-disabled person doing the same job would not need. Leasing equipment can also be considered when it offers the most cost-effective solution. Employers will be expected to contribute if aids bring general benefits to the business, firm, other employees or customers.
- **Support workers** – Help with the costs of employing personal support for a person with a disability at a job interview (eg advocacy support); on their journey to and from work (eg escort or driver) and help in the workplace including readers.
- **Travel to work** – Support when a disabled person incurs extra costs in travelling to and from work because of their disability. Beneficiaries are expected to contribute the usual costs of travelling to work by public transport (or mileage costs where there is no public transport).

Jobcentre Plus can offer a wide range of other practical help and advice to help employers in the recruitment and employment of disabled people.

- **WORKSTEP** is the new name for the modernised Supported Employment Programme. It provides job support to disabled people who face more complex barriers to getting and keeping a job, but who can work effectively with the right support. The programme also offers practical assistance to employers. The programme enables eligible disabled people to realise their full potential to work within a commercial environment, giving them, wherever possible, an opportunity to progress into open employment.
- **The Job Introduction Scheme (JIS)** can help if you are thinking of recruiting someone with a disability, who has the skills and potential to do the job, but about whom you have practical concerns because of their disability. If you are about to employ a disabled person and you, or the disabled person, have genuine concerns about their ability to manage the particular job because of that disability, you can discuss it with a disability employment adviser (DEA). DEAs are usually based at your local Jobcentre Plus office. The DEA will decide whether JIS will be available in these circumstances.
- **New Deal for Disabled People** is a central part of the Government's strategy to help people move from benefits into work. It gives the unemployed the opportunity to develop the skills and experience that employers want so they can find lasting, worthwhile jobs. Employers are increasingly involved in the design of New Deal, to make sure it is meeting the needs of business. And, because New Deal is delivered by local partnerships – including training organisations and employers – it is tailored to the needs of local businesses and the local economy.

Telephone numbers and addresses of local Jobcentre Plus offices can be found in local telephone directories or through the Jobcentre Plus website www.jobcentreplus.gov.uk



What is the Disability Symbol?

The Disability Symbol is a recognition given by Jobcentre Plus to employers who have agreed to take action to meet five commitments regarding the employment, retention, training and career development of disabled employees.

Employers who use the symbol have agreed with Jobcentre Plus that they will take action on these five commitments:

- To interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities.
- To ensure there is a mechanism in place to discuss with disabled employees, at any time but at least once a year, what can be done to make sure they can develop and use their abilities.
- To make every effort when employees become disabled to make sure they stay in employment.
- To take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work.
- Each year, to review the five commitments and what has been achieved, plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans.

ACAS

The Advisory, Conciliation and Arbitration Service can help employers and individuals with information on legislation and on industrial relations, practices and procedures. ACAS has a Helpline service, which can be contacted on:

- Telephone: 08457 474 747
- Textphone: 08456 061 600
- Website: www.acas.org.uk

The Information Commissioner's Office

Provides information and guidance about the Data Protection Act and the Codes of Practice which relate to it.

- Telephone: 01625 545 745
- Email: mail@ico.gsi.gov.uk
- Website: www.informationcommissioner.gov.uk

The Pensions Ombudsman

The Ombudsman investigates and makes decisions about complaints and disputes about the way that occupational pension schemes are run.

- Telephone: 020 7834 9144
- Fax: 020 7821 0065
- Email: enquiries@pensions-ombudsman.org.uk
- Website: www.pensions-ombudsman.org.uk

OPAS

The Pensions Advisory Service is an independent organisation that provides information and guidance on the whole spectrum of pensions, including state, company, personal and stakeholder schemes. It can help any member of the public who has a problem, complaint or dispute with their occupational or private pension provider.

- Telephone: 08456 012 923
- Fax: 020 7233 8016
- Email: enquiries@opas.org.uk
- Website: www.opas.org.uk

The following disability organisations will be able to offer information and advice about specific impairments and health conditions. Many also provide additional services such as factsheets and consultancy to employers.

Action against Autism
Eastwood Business Centre
Greenhill Avenue
Glasgow G46 6QZ
Tel: 0141 638 6131
Email: info@actagainstautism.org.uk
Website: www.actagainstautism.org.uk

Action for Blind People
14-16 Verney Road
London SE16 3DZ
Helpline: 0800 915 4666
Tel: 020 7635 4800
Email: info@afbp.org.uk
Website: www.afbp.org

Action for ME
PO Box 1302
Wells BA5 1YE
Tel: 01749 670 799
Fax: 01749 672 561
Email: admin@afme.org.uk
Website: www.afme.org.uk

Action for Sick Children
c/o National Children's Bureau
8 Wakely Street
London EC1V 7QE
Tel: 020 7843 6444
Website: www.actionforsickchildren.org

AFASIC (Overcoming Speech Impairments)

2nd Floor
50-52 Gt. Sutton Street
London EC1V 0DJ
Helpline: 0845 355 5577
Tel: 020 7490 9410
Fax: 020 7251 2834
Email: info@afasic.org.uk
Website: www.afasic.org.uk

Arthritis Care

18 Stephenson Way
London NW1 2HD
Helpline: 0808 800 4050
Tel: 020 7380 6555
Email: helplines@arthritiscare.org.uk
Website: www.arthritiscare.org.uk

Arthrogryposis Group

Beak Cottage
Dunley
Stourport-on-Severn DY13 0TZ
Tel: 01747 822 655
Email: [info@tagonline.org.uk](mailto:info>tagonline.org.uk)

ASBAH (Association for Spina Bifida and Hydrocephalus)

ASBAH House
42 Park Road
Peterborough PE1 2UQ
Tel: 01733 555 988
Fax: 01733 555 985
Email: info@asbah.org.uk
Website: www.asbah.org

Asthma UK
Providence House
Providence Place
London N1 0NT
Helpline: 0845 701 0203
Tel: 020 7226 2260
Fax: 020 7704 0740
Website: www.asthma.org.uk

Ataxia UK
10 Winchester House
Kennington Park
Cranmer Road
London SW9 6EJ
Helpline: 020 7820 3900
Tel: 020 7582 1444
Fax: 020 7582 9444
Email: enquires@ataxia.org.uk
Website: www.ataxia.org.uk

Back Care
16 Elmtree Road
Teddington TW11 8ST
Tel: 020 8977 5474
Fax: 020 8943 5318
Website: www.backcare.org.uk

Barnardo's
Tanners Lane
Barkingside
Ilford IG6 1QG
Tel: 020 8550 8822
Fax: 020 8551 6870
Website: www.barnardos.org.uk

Behcet's Syndrome Society
3 Church Close
Lambourn
Hungerford RG17 8PU
Tel: 01488 71116
Email: info@behcets-society.fsnet.co.uk
Website: www.behcets.org.uk

BLESMA (British Limbless Ex-Servicemen's Association)
185-187 High Road
Chadwell Heath RM6 6NA
Tel: 020 8590 1124
Fax: 020 8599 2932
Email: blesma185@btconnect.com
Website: www.blesma.org

Blood Pressure Association
60 Cranmer Terrace
London SW17 0QS
Tel: 020 8772 4994
Fax: 020 8772 4999
Website: www.bpassoc.org.uk

British Dyslexia Association
98 London Road
Reading RG1 5AU
Helpline: 0118 966 8271
Tel: 0118 966 2677
Fax: 0118 935 1927
Email: admin@bda-dyslexia.demon.co.uk
Website: www.bda-dyslexia.org.uk

British Institute of Learning Disabilities (BILD)
Campion House
Green Street
Kidderminster DY10 1JL
Tel: 01562 723 010
Fax: 01562 723 028
Email: enquiries@bild.org.uk
Website: www.bild.org.uk

British Kidney Patient Association
Bordon GU35 9JZ
Tel: 01420 472 021/2
Fax: 01420 475 831
Website: www.britishkidney-pa.co.uk

British Paralympic Association
9th Floor
69 Park Lane
Croydon CR9 1BG
Tel: 020 7662 8882
Fax: 020 7662 8310
Website: www.paralympics.org.uk

British Stammering Association
15 Old Ford Road
Bethnal Green
London E2 9PJ
Tel: 020 8983 1003
Fax: 020 8983 3591
Email: mail@stammering.org.uk
Website: www.stammering.org

CancerBACUP
3 Bath Place
Rivington Street
London EC2A 3JR
Helpline: 0808 800 1234
Tel: 020 7696 9003
Fax: 020 7696 9002
Website: www.cancerbacup.org.uk

CARE (Cottage and Rural Enterprises Ltd)
9 Weir Road
Kibworth LE8 0LQ
Tel: 0116 279 3225
Fax: 0116 279 6384
Website: www.care-ltd.co.uk

Changing Faces
1 and 2 Junction Mews
London W2 1PN
Tel: 0845 450 0275
Fax: 0845 450 0276
Email: info@changingfaces.co.uk
Website: www.changingfaces.co.uk

Chest, Heart and Stroke Association (NI)
16 Hillhead Gardens
Banbridge BT32 3XF
Tel: 0284 062 3017

Cleft Lip and Palate Association (CLAPA)
1st Floor Green Man Tower
332 Goswell Road
London EC1V 7LQ
Tel: 020 7833 4883
Website: www.clapa.com

Continence Foundation
307 Hatton Square
16 Baldwins Gardens
London EC1N 7RJ
Helpline: 0845 345 0165
Email: continence-help@dial.pipex.com
Website: www.continence-foundation.org.uk

Cystic Fibrosis Trust
11 London Road
Bromley BR1 1BY
Tel: 020 8464 7211
Fax: 020 8313 0472
Website: www.cftrust.org.uk

DEBRA
(Dystrophic Epidermolysis Bullosa Research Association)
Debra House
13 Wellington Business Park
Dukes Ride
Crowthorne RG45 6LS
Tel: 01344 771 961
Email: debra@debra.org.uk
Website: www.debra.org.uk

Depression Alliance
35 Westminster Bridge Road
London SE1 7JB
Helpline: 0845 123 2320
Email Wales: wales@depressionalliance.org
Email Scotland: info@dascot.org
Website: www.depressionalliance.org

Diabetics UK
10 Parkway
London NW1 7AA
Careline: 0845 120 2960
Tel: 020 7424 1000
Fax: 020 7424 1001
Email: info@diabetes.org.uk
Website: www.diabetes.org.uk

Dyslexia Institute
Park House
Wick Road
Egham
Surrey TW20 0HH
Tel: 01784 222 300
Fax: 01784 222 333
Email: info@dyslexia-inst.org.uk
Website: www.dyslexia-inst.org.uk

Dystonia Society
46-47 Britton Street
London EC1M 5UJ
Tel: 020 7490 5671
Fax: 020 7490 5672
Email: info@dystonia.org.uk
Website: www.dystonia.org.uk

Eating Disorders Association
103 Prince of Wales Road
Norwich NR1 1DW
Adult Helpline: 01603 621 414
Textphone: 01603 753 322
Email: helpmail@edauk.com
Website: www.edauk.com

Ehlers-Danlos Support Group
PO Box 335
Farnham GU10 1XJ
Tel: 01252 690 940
Email: info@ehlers-danlos.org
Website: www.ehlers-danlos.org

Empower (British Polio Fellowship)
Roehampton Rehabilitation Centre
Roehampton Lane
London SW15 5PR
Tel: 020 8788 1777
Fax: 020 8788 3444
Email: enquiries@empowernet.org.uk

Epilepsy Action
(British Epilepsy Association)
New Anstey House
Gate Way Drive
Leeds LS19 7XY
Freephone: 0808 800 5050
Freefax: 0808 800 5555
Tel: 0113 210 8800
Fax: 0113 391 0300
Email: helpline@epilepsy.org.uk
Website: www.epilepsy.org.uk

Fibromyalgia Association UK
PO Box 206
Stourbridge DY9 8YL
Helpline: 0870 220 1232
Fax: 0870 752 5118
Email: fmauk@hotmail.com
Website: www.fibromyalgia-association.org

Guide Dogs for the Blind Association (GDBA)
Burghfield Common
Reading RG7 3YG
Tel: 0118 983 5555
Fax: 0118 983 5433
Email: guidedogs@guidedogs.org.uk
Website: www.guidedogs.org.uk

Guillain-Barre Syndrome Support Group
Helpline: 0800 374 803
Email: admin@gbs.org.uk
Website: www.gbs.org.uk

Haemophilia Society
3rd Floor
Chesterfield House
385 Euston Road
London NW1 3AU
Helpline: 0800 018 6068
Tel: 020 7380 0600
Email: info@haemophilia.org.uk
Website: www.haemophilia.org.uk

Headway, The Brain Injury Association
4 King Edward Court
King Edward Street
Nottingham NG1 1EW
Freephone Helpline 0808 8002 244
Tel: 0115 924 0800
Fax: 0115 958 4446
Email: enquiries@headway.org.uk
Website: www.headway.org.uk

Hearing Concern
The British Association of the Hard of Hearing
4th Floor
281 King Street
London W6 9LZ
Helpdesk (voice and text): 0845 074 4600
Email: info@hearingconcern.org.uk
Website: www.hearingconcern.com

Huntington's Disease Association
108 Battersea High Street
London SW11 3HP
Tel: 020 7223 7000
Fax: 020 7223 9489
Email: info@hda.org.uk
Website: www.hda.org.uk

Learning from Experience Trust
Goldsmith's College
Deptford Town Hall
New Cross Road
London SE14 6AF
Tel: 020 7919 7739
Fax: 020 7919 7762
Email: info@learningexperience.org.uk
Website: www.learningexperience.org.uk

Limbless Association
Rehabilitation Centre
Roehampton Lane
London SW15 5PR
Tel: 020 8788 1777
Website: www.limbless-association.org.uk

Macmillan Cancer Relief
89 Albert Embankment
London SE1 7UQ
Freephone: 0808 808 2020
Textphone: 0808 808 0121
Email: cancerline@macmillan.org.uk
Website: www.macmillan.org.uk

ME Association
4 Top Angel
Buckingham Industrial Park
Buckingham MK18 1TH
Tel: 0870 444 8233
Fax: 01280 821 602
Website: www.meassociation.org.uk

MENCAP (Understanding learning disability)
123 Golden Lane
London EC1Y 0RT
Tel: 0808 808 1111
Fax: 020 7608 3254
Website: www.mencap.org.uk

Meniere's Society
98 Maybury Road
Woking GU21 5HX
Tel: 01483 740 597
Fax: 01483 755 441
Email: info@menieres.org.uk
Website: www.menieres.org.uk

Mental Health Foundation
83 Victoria Street
London SW1H 0HW
Tel: 020 7802 0300
Fax: 020 7802 0301
Email: mhf@mhf.org.uk
Website: www.mentalhealth.org.uk

MIND (The National Association for Mental Health)
15-19 Broadway
London E15 4BQ
Infoline: 0845 766 0163
Tel: 020 8519 2122
Fax: 020 8522 1725
Website: www.mind.org.uk

Motor Neurone Disease Association
PO Box 246
Northampton NN1 2PR
Helpline: 08457 626 262
Tel: 01604 250 505
Fax: 01604 624 726
Email: enquiries@mndassociation.org
Website: www.mndassociation.org

MS Society
MS National Centre
372 Edgware Road
London NW2 6ND
Tel: 020 8438 0700
Website: www.mssociety.org.uk

Muscular Dystrophy Group of Great Britain
and Northern Ireland
7-11 Prescott Place
London SW4 6BS
Helpline: 020 7720 8055
Fax: 020 7498 0670
Email: info@muscular-dystrophy.org
Website: www.muscular-dystrophy.org

Myasthenia Gravis Association
Keynes House
Chester Park
Alfreton Road
Derby DE21 4AS
Helpline: 0800 919 922
Tel: 01332 290 219
Fax: 01332 293 641
Website: www.mgauk.org

National Association for Colitis and Crohn's Disease (NACC)
4 Beaumont House
Sutton Road
St. Albans AL1 5HH
Infoline: 0845 130 2233
Website: www.nacc.org.uk

National Autistic Society Head Office
393 City Road
London EC1V 1NG
Helpline: 0845 070 4004
Tel: 020 7833 2299
Fax: 020 7833 9666
Email: nas@nas.org.uk
Website: www.nas.org.uk

National Eczema Society
Hill House
Highgate Hill
London N19 5NA
Helpline: 0870 241 3604
Tel: 020 7281 3553
Fax: 020 7281 6395
Email: Helpline@eczema.org
Website: www.eczema.org

National Kidney Federation (NKF)
6 Stanley Street
Worksop S81 7HX
Helpline: 0845 601 0209
Tel: 01909 487 795
Fax: 01909 481 723
Email: nkf@kidney.org.uk
Website: www.kidney.org.uk

National Osteoporosis Society
Camerton
Bath BA2 0PJ
Helpline: 0845 450 0230
Tel: 01761 471 771
Fax: 01761 471 104
Email: info@nos.org.uk
Website: www.nos.org.uk

National Society for Epilepsy
Chesham Lane
Chalfont St. Peter SL9 0RJ
Helpline: 01494 601 400
Tel: 01494 601 300
Website www.epilpsyse.org.uk

Parkinson's Disease Society
215 Vauxhall Bridge Road
London SW1V 1EJ
Freephone: 0808 800 0303
Tel: 020 793 1080
Fax: 020 7233 9908/7963 9360
Email: enquiries@parkinsons.org.uk
Website: www.parkinsons.org.uk

The Partially Sighted Society
62 Salusbury Road
London NW6 6NS
Tel/Fax: 020 7372 1551

People First
3rd Floor
299 Kentish Town Road
London NW5 2TJ
Tel: 020 7485 6660
Fax: 020 7485 6664
Website: www.peoplefirstltd.org.uk

Psoriasis Association
7 Milton Street
Northampton NN2 7JG
Tel: 0845 676 0076
Fax: 01604 792 894
Email: mail@psoriasis.demon.co.uk
Website: www.psoriasis-association.org.uk

Restricted Growth Association
PO Box 4744
Dorchester DT2 9FA
Tel: 01308 898 445
Email: office@restrictedgrowth.co.uk
Website: www.rgaonline.org.uk

Rethink (National Schizophrenia Fellowship)
30 Tabernacle Street
London EC2A 4DD
Advice Line: 020 8974 6814
Tel: 0845 456 0455
Email: info@rethink.org.uk
Website: www.rethink.org

RNIB (Royal National Institute for the Blind)
105 Judd Street
London WC1H 9NE
Helpline: 0845 766 9999
Fax: 020 7388 2034
Email: helpline@rnib.org.uk
Website: www.rnib.org.uk

RNID (Royal National Institute for Deaf People)
19-23 Featherstone Street
London EC1Y 8SL
Tel: 020 7296 8000
Textphone: 0808 808 9000
Fax: 020 7296 8199
Email: informationline@rnid.org.uk
tinnitushelpline@rnid.org.uk
Website: www.rnid.org.uk

SANE

1st Floor, Cityside House
40 Alder Street
London E1 1EE
Helpline: 0845 767 8000
Tel: 020 7375 1002
Fax: 020 7375 2162
Email: london@sane.org.uk
Website: www.sane.org.uk

SCOPE

(Office Address)
6 Market Road
London N7 9PW
Tel: 020 7619 7100
(Helpline Address)
PO Box 833
Milton Keynes MK12 5NY
Helpline: 0808 800 3333
Email: cphelpline@scope.org.uk
Website: www.scope.org.uk

Sense (The National Deafblind and Rubella Association)

11-13 Clifton Terrace
Finsbury Park
London N4 3SR
Tel: 020 7272 7774
Textphone: 020 7272 9648
Fax: 020 7272 6012
Email: enquiries@sense.org.uk
Website: www.sense.org.uk

Sense Cymru
5 Raleigh Walk
Brigantine Place
Atlantic Wharf
Cardiff CF10 4LN
Tel/Fax: 029 2045 7641
Textphone: 029 2049 9644

Sense Scotland
5th Floor
45 Finnieston Street
Glasgow G3 8JU
Tel: 0141 564 2444
Textphone: 0141 564 2442
Fax: 0141 564 2443

Sickle Cell Society
54 Station Road
London NW10 7UA
Tel: 020 8961 7795
Fax: 020 8961 8346
Email: info@sicklecellsociety.org
Website: www.sicklecellsociety.org

Speakability (formerly Action for Dysphasic Adults)
1 Royal Street
London SE1 7LL
Helpline: 0808 808 9572
Email: speakability@speakability.org
Website: www.speakability.org.uk

Spinal Injuries Association
Suite J, 3rd Floor
Acorn House
387-391 Midsummer Boulevard
Milton Keynes MK9 3HP
Helpline: 080 0980 0501
Tel: 0845 678 6633
Fax: 01908 608 492
Email: sia@spinal.co.uk
Website: www.spinal.co.uk

Stroke Association
240 City Road
London EC1V 2PR
Helpline: 0845 303 3100
Tel: 020 7566 0300
Fax: 020 7490 2686
Website: www.stroke.org.uk

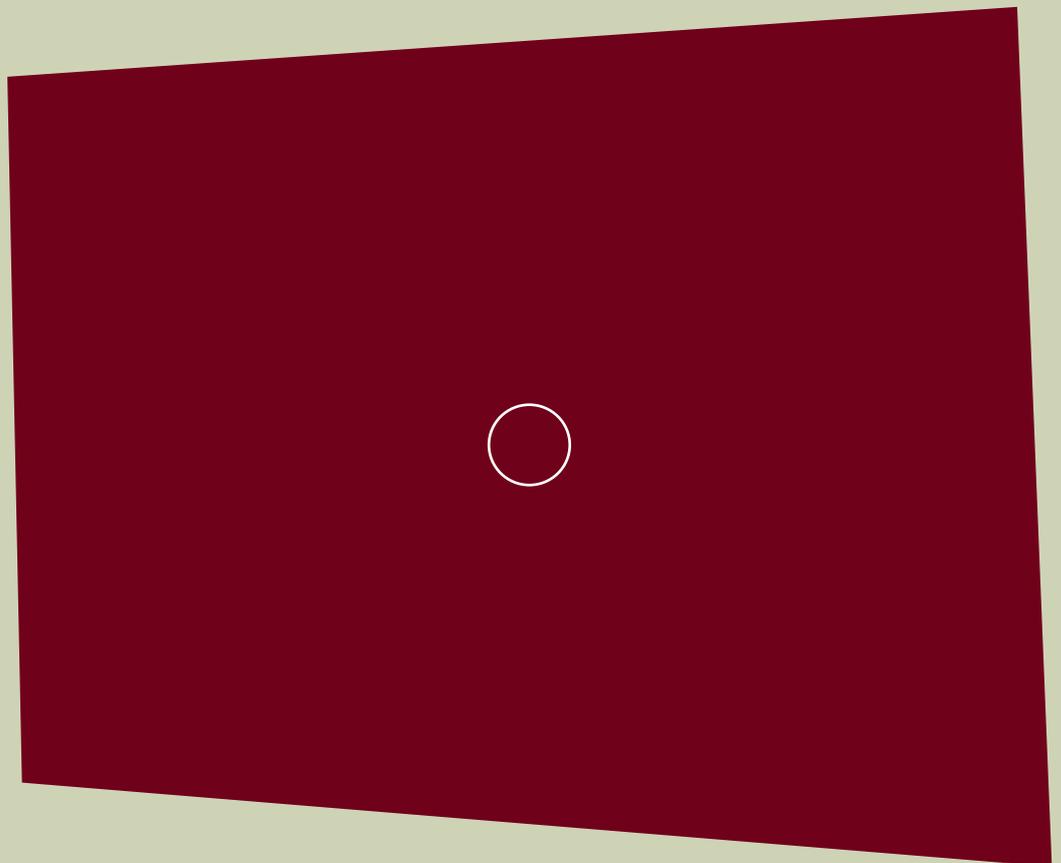
Terrence Higgins Trust
52-54 Grays Inn Road
London WC1X 8JU
Helpline: 0845 122 1200
Tel: 020 7831 0330
Fax: 020 7242 0121
Email: info@tht.org.uk
Website: www.tht.org.uk

How to use the CD

This pack for employers provides a comprehensive guide to the law and best practice in relation to employing disabled people and those with long-term health conditions. The information sheets are in PDF format on the CD attached and can be viewed using Adobe Acrobat Reader. If you don't have this on your PC, Acrobat Reader is included on the CD. The guide is split into sections to make navigation easier.

It is designed to be copied or photocopied so that you can distribute it to others or keep for yourself when you need it. Further information is available on our website:

www.drc-gb.org



If you require this publication in an alternative format and/or language please contact the Helpline to discuss your needs. It is also available on the DRC website:

www.drc-gb.org

The DRC Language Line service offers an interpretation facility providing information in community languages and is available on the DRC Helpline telephone number.

You can email the DRC Helpline from our website:

www.drc-gb.org

EMP14

 **Telephone** 08457 622 633

 **Textphone** 08457 622 644

Fax 08457 778 878

Website www.drc-gb.org

 **Post** DRC Helpline
FREEPOST
MID 02164
Stratford upon Avon
CV37 9BR



INVESTOR IN PEOPLE

