

**Guidance on how to make reasonable adjustments for employees with a disability**

# Introduction

This guide helps you understand and meet your obligations to make reasonable adjustments for employees with a disability.

Annex 1 gives some useful background information on the legal position.

# What is a reasonable adjustment?

A reasonable adjustment is a change to a physical feature, environment or provision, criterion or practice (the way things are done) to make sure that a person with a disability is not put at a substantial disadvantage compared to non-disabled persons generally, who work under the same conditions.

This could include:

* Amending any formal or informal policies, decisions, rules, practices or arrangements;
* Making changes to the physical environment (for example, providing access to a building);
* Providing aids and services (for example, special computer software).

# How do you decide what is reasonable?

What is reasonable depends on the individual circumstances of each case. In deciding whether an adjustment is reasonable you should take into account:

* The extent to which the adjustment would prevent the disadvantage. An adjustment will be considered to be reasonable if there is a real prospect of it removing the disadvantage;
* Practicability;
* The financial and other costs of making the adjustment and the extent of any disruption caused;
* The extent of financial or other resources;
* The availability to the employer of financial or other assistance to help make an adjustment (such as advice through Access to Work);

This is not an exhaustive list.

# Types of reasonable adjustments

When considering possible reasonable adjustments, you should focus on the disadvantage and how this can be removed. Although there is no obligation for the employee to identify what reasonable adjustments are required, you should talk to them to see what they think would be beneficial. You should also consider your own ideas together with any advice from Occupational Health. A Union representative may also make suggestions.

Even if it is uncertain whether an adjustment will remove the disadvantage it may still be considered reasonable to implement it. You could implement the adjustment on a trial basis to see if it has the desired effect. If the adjustment is not effective, you should consider other options. There are some useful external sources of advice and guidance on reasonable adjustments which may help an employee with a disability to return to or remain in work. For example, see the Equality and Human Rights Commission Code of Practice on Employment and the Access to Work scheme. The table below gives some examples of reasonable adjustments you could consider implementing for an employee with a disability:

|  |  |
| --- | --- |
| Changing the way things are done | * Reorganising work so tasks the employee may find difficult are allocated to another employee (for example, covering a meeting that involves travel) and the employee is given other appropriate work instead. * Transferring the employee to fill an existing vacancy which is better suited to their needs. * Altering working hours (for example, a later start and finish if medication makes the employee drowsy in the mornings. * Assigning the employee to a different place of work (for example, allowing the employee to work from home where travel is a barrier). * Allowing the employee to be absent during working hours for rehabilitation, assessment, or treatment (for example, physiotherapy, chemotherapy appointments). * Giving training, or arranging for training to be given (for example, refresher training or mentoring to build confidence). * Increasing the trigger points to take account of absences linked directly to the disability. * Use departmental IT systems/facilities effectively to enable employees to participate (for example conducting meetings using video and teleconferencing facilities). * Seek advice from HR about how internal policies should be applied to employees with a disability if this is necessary to remove any disadvantage. |
| Changes to the physical environment | * Making adjustments to premises (for example, widening doorways). |
| Providing aids and services | * Modifying IT (for example, providing voice activated software for an employee with a visual impairment). * Modifying instructions, or reference manuals (for example providing the employee access to different formats). * Modifying procedures for testing or assessment (for example, allowing the employee to be accompanied by a support worker). * Providing a reader or an interpreter (for example, a sign language interpreter for an employee with a hearing impairment). * Providing supervision (for example, providing extra help with work prioritisation). * Providing equipment (for example, higher desks to enable easier access for a wheelchair user or an ergonomic keyboard for an employee with a musculoskeletal condition). |

You should record any decisions you make on reasonable adjustments. This includes any which have been recommended or suggested and it has not been possible to implement.

The need for adjustments may change and should be discussed and reviewed with the employee on a regular basis.

Useful information

|  |  |
| --- | --- |
| Provider | Contact details |
| Access to work | https://www.gov.uk/access-to-work |
| Equality and Human Rights Commission Code of Practice on Employment | https://www.equalityhumanrights.com/en/publication-download/employment-statutory-code-practice |

# Questions and answers

Q1. Who decides whether an employee is disabled?

A1. Only an Employment Tribunal can decide whether an employee is disabled as a matter of law as defined by the Equality Act. If you think the employee might be disabled, or the employee tells you that they are, talk to them about their condition. An Occupational Health adviser can advise on the effects of the employee’s condition which will help you come to a view as to whether an employee is likely to be considered to be disabled. Where there is any doubt and/or Occupational Health advice has not yet been obtained it is good practice to proceed as though they are and consider what reasonable adjustments they need. Some people are automatically covered by the Equality Act. Annex 1 explains more about this.

Q2. What is the role of Occupational Health Provider?

A2. The Occupational Health Provider can support you by advising on:

* How an employee’s condition affects their ability to remain in or return to work;
* Any reasonable adjustments that may improve the employee’s chances of remaining in work or returning to work or what work they might be able to do.

The questions in your referral to the Occupational Health provider should have a clear focus on what the employee can do rather than the limiting effects of the employee’s condition.

Whilst you are waiting for Occupational Health advice you should consider and, if necessary, implement any reasonable adjustments requested by the employee. Delays in asking for or receiving Occupational Health advice will not necessarily justify a failure to put adjustments in place once the employer is aware that there is a disability issue.

Q3. What do I need to take into account when considering increasing a trigger point as a reasonable adjustment?

A3. You should take into account:

* The employee’s absence record – the past level of absence due to the disability is a good indicator of the likely level of absence in the future;
* The stability of the condition – the likely level of absence will be affected by whether or not the condition is stable. Remember that new courses of treatment can result in temporary improvement or deterioration which can distort the employee’s absence pattern. Occupational Health can advise on this. You should be cautious about taking decisions based on temporary changes in absence levels;
* What level of absence the business can support - you will need to consider factors such as cost, disruption to the business and impact on colleagues.

Managers should contact HR/OH for advice on increasing a trigger point before proceeding.

Q4. When should I review an employee’s reasonable adjustment?

A4. You should talk to the employee regularly about how the adjustment is working. You may need to review the adjustment if there is a change in circumstances or depending on the nature of the disability, for example if it is progressive or subject to flare ups. Even if a person is receiving medical treatment and is symptom free you should review the effectiveness of the reasonable adjustment regularly. You should discuss the effectiveness of any reasonable adjustments during any formal discussions with the employee about their attendance.

Q5. Can I ask an employee with a disability to pay for any of the adjustments?

A5. No. The cost cannot be passed on to the employee with a disability.

Q6. Can I justify failure to implement a reasonable adjustment?

A6. No. Once it has been established that the adjustment is reasonable, there is no justification for not implementing it.

Q7. Can I refuse an adjustment on the grounds of cost?

A7. That depends. The cost of implementing an adjustment should be taken into account when deciding whether it is reasonable or not. It should not be a reason for rejecting an adjustment out of hand. A proper assessment must be carried out.

# Case Study

Lauren has had a number of short term intermittent absences.

As part of a formal attendance management process she tells her Line Manager that she suffers from anxiety and depression and this has contributed to some of her absences. The Line Manager makes a referral to Occupational Health, who advises Lauren’s condition is long term and significantly affects her day-to-day activities. They advise her condition is likely to become worse if she is stressed and suggest a number of reasonable adjustments.

Occupational Health suggests Lauren would benefit from some support in managing her workload to help prevent her from becoming stressed and to help her focus on what she needs to do. They also recommend that she is able to take some ‘time out’ if she starts to feel anxious so that she can take steps to recover her composure.

Lauren’s manager discusses this advice with her to establish whether there are any specific tasks that cause her to feel stressed and considers whether an individual risk assessment is appropriate. Lauren tells her manager that conflicting deadlines and her current backlog of work are causing her the most concern. Her manager allocates Lauren a buddy within the team who will help her with prioritising her work. Some of the backlog of work is reallocated to other colleagues.

Lauren and her manager also agree she can take time out in the first aid room when needed, without having to explain or need permission.

# Annex 1

*The Equality Act 2010*

In the employment context, the Equality Act 2010 protects disabled people who are at a substantial disadvantage or detriment when compared to non-disabled people because of their disability. The disadvantage may arise out of:

* A provision, criterion or practice applied by the employer to all employees i.e. the way things are normally done;
* A physical feature e.g. the layout of the building or office where they work or equipment used to carry out their work;
* The need for an auxiliary aid e.g. Braille.

*The duty to make reasonable adjustments*

The Act imposes a duty on employers to make reasonable adjustments for employees with a disability to avoid them being put at that disadvantage. This duty also applies to prospective employees and job applicants. It may be necessary to consider reasonable adjustments to prospective terms and conditions for disabled applicants as well as to the recruitment process.

*Definition of Disability*

The Equality Act 2010 defines a person as having a disability if:

* They have a physical or mental impairment. This could cover a wide range of physical or mental health impairments (for example, sensory impairments, such as those affecting sight or hearing, or mental health impairments such as bipolar disorder);
* The impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities. For example, someone might be unable to carry out an activity or for as long as would normally be expected, or may be unable to carry out an activity without pain or fatigue.

These words have the following meanings:

* 'Substantial' means more than minor or trivial;
* 'Long-term' means that the effect of the impairment has lasted or is likely to last for at least twelve months or is likely to last for the rest of the life of the person affected;
* 'Normal day-to-day activities' include everyday things like eating, washing, walking and going shopping.

Other points to note are:

* People who have had a disability in the past are also protected by the Act, even if they have made a full recovery;
* Even if the impairment no longer has a substantial adverse effect but the effect is likely to recur, the employee is still protected;
* People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis, even if the condition does not yet have an adverse effect. People with other progressive conditions are protected when they begin to experience a substantial adverse effect;
* An impairment which consists of a severe disfigurement would also be considered as having an adverse affect;
* Some conditions are specifically excluded from being covered by the disability definition, for example a tendency to set fires, addictions to non–prescribed substances and hay fever. Although these conditions are excluded, their effects may mean the employee is considered to be disabled. For example an alcoholic may develop cirrhosis of the liver and be regarded as disabled.

May 2020

HR Department