



# Reasonable adjustments duty and representing disabled workers

TUC, 15 November 2023

# Session content

- Who is covered by the reasonable adjustments duty?
- Busting a few myths
- What should unions expect from employers?
- How does 'reasonable-ness' get decided?
- Access to Work scheme
- Can an employer refuse a request?
- Q&A and further resources

# Discrimination under the Equality Act 2010

- Direct discrimination
- Indirect discrimination
- Discrimination arising from disability
- **Failure to make reasonable adjustments**

Employers must make reasonable changes to their provisions, criteria and practices, alter their premises and/or provide aids and equipment where this would enable a disabled person facing a substantial barrier to be employed or access a service.

## Reasonable adjustments duty - who is covered?



Anyone with “a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities”

Anyone who meets the Equality Act definition of “disabled person”

# Who is covered?

- Includes many long-term health conditions, including those that fluctuate, where their impact on daily life is “substantial”
- Guidance specifies cancer, HIV and multiple sclerosis

# Examples of workplace adjustments

- Giving more time for someone with dyslexia to do any written or reading tests that are part of the recruitment process
- Allowing more frequent breaks for someone with diabetes to get the right amount of food and drink throughout the day
- Giving more one-to-one support to help prioritise the work of an employee with anxiety
- A phased return to work for an employee who's been on long-term sick leave
- Providing a supportive chair for an employee who has a back or shoulder condition
- Providing the right phone for someone who uses a hearing aid
- Arranging for an interview to be held on the ground floor for a job applicant who uses a wheelchair

## Common misconceptions

- You're not allowed to treat people differently
- You need to know the detail of someone's condition before making an adjustment or deciding if it's reasonable
- Adjustments are costly and disruptive

## What to ask for / expect from employers

- Conversation framed around barriers rather than someone's condition or impairment
- Seek the employee's views on what changes or aids would help them perform to the best of their ability
- Give full and fair consideration to all reasonable possibilities

# How does 'reasonable-ness' get decided?

- Effectiveness
- Practicability
- Cost and resources available
- Disruption
- Effect on others (e.g. risk)

# Access to Work

If there is a substantial cost involved in providing support, the **Access to Work** scheme can help.

Support is based on **individual needs**.

An Access to Work grant can pay for:

- **special equipment, adaptations** or support worker services to help with **work-related tasks**;
- **help getting to and from work**.

[www.gov.uk/access-to-work](http://www.gov.uk/access-to-work)

# Can an employer refuse an adjustment?

- Best practice is about being **positive** and **proactive** and ensuring **everyone has what they need to do their jobs well**
- Refusing an adjustment on the grounds someone may not meet the definition of ‘disabled’ is unlikely to be helpful
- It’s ok to consider the effectiveness of an adjustment and the practicalities of implementation
- Saying no to a particular request or recommendation should not be regarded as the end of the conversation
- If the barrier remains, so does the need to consider other adjustments.

## Discussion points in pairs/groups

Any personal experience of workplace adjustments?

What examples of adjustments for colleagues have you come across?

What issues may come up about the 'reasonable-ness' of a particular request?

How would you counter any push back from employers?

# Anti-ableist approaches

- **Leadership intent and profile** for diversity/disability and inclusion
- **Going above and beyond minimum legal requirement**
- **Clarity on organisational policies and processes**, including disciplinary policies and reporting procedures covering disability-related discrimination
- **Confidence** - leaders, managers know what to do and when
- **Allies** - advocates, champions, 'upstanders'
- **Supportive and resourced business functions** - HR, IT, Facilities
- **Clear signposting and guidance**

## Summary of DR UK messages to line managers

- ‘Disability’ is a legal concept that creates rights for certain people not to be discriminated against
- Disabling barriers are common and staff who may need support, or simply for things to be done differently, are a large and ever-changing part of the workforce
- Many conditions fluctuate in their effects. Physical and mental health challenges affect many people at some point
- Enabling ‘disabled people’ to flourish and progress at work makes sense
- Being a disability confident manager means you are a good manager of people