

Disability Law Service

advice and legal representation for disabled people

Reasonable Adjustments in Employment

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Just text: **THNX01 £5 to 70070**

Reasonable Adjustments in Employment

Introduction

Under the Equality Act 2010 (the EA), disabled people have certain rights at work and employers have legal obligations towards their disabled workers.

In order to be protected as 'disabled' under the EA, you have to meet the definition of disability as set out in the EA, namely, you have to have a 'physical or mental impairment' which has 'a substantial and long-term adverse effect on (your) ability to carry out normal day-to-day activities'. 'Long-term' is defined as having lasted at least 12 months, or likely to last at least 12 months.

One of the most important obligations placed on the employer is the legal duty to make reasonable adjustments to both the job role and the workplace to help their disabled workers. .

What are reasonable adjustments?

Under the EA employers have a duty to make reasonable adjustments where failure to do so would place the disabled worker at a substantial disadvantage compared to non-disabled workers. It is important that you think carefully about how the symptoms of your disability put you at a disadvantage vis-à-vis a workplace requirement or physical feature of the premises, as, without that disadvantage, there is no obligation on the employer to make reasonable adjustments.

There is no obligation on an employer to make adjustments when they do not know of, and cannot reasonably be expected to know of, a disability.

There are many different types of adjustments. Some examples include:

- Provision of special equipment
- Alterations to working hours
- Adjustments to a disabled worker's duties
- Redeployment to a different role in the workplace (if a suitable vacant role exists)
- The provision of written information in a different format such as Braille or larger print or ensuring that there is a BSL signer available for meetings or interviews
- Allowing a disabled person time off for necessary medical appointments or treatment (the right is generally for reasonable unpaid time off work, unless there is anything in your contract requiring time off for medical appointments to be paid)
- Physical alterations to the workplace such as ramped entrances, accessible toilets, reserved parking spaces close to the entrance, stair lifts
- The provision of a support worker to help a disabled worker with elements of their role that they are unable to complete alone due to their impairment.

Whether or not a particular adjustment is reasonable will depend on the circumstances – ultimately, this is an objective test, for an employment tribunal to decide as a question of fact. When deciding whether a potential adjustment is reasonable there are a number of factors that can be taken into account. These include:

- the cost of making the adjustment
- the effect that this will have on the employer's business
- the resources, financial and other resources, available to the employer
- how effective the adjustment would be at removing the disadvantage to the worker.

Where a disabled worker requests an adjustment, it is for the employer to show that the adjustment requested is not reasonable and to justify their decision.

How do I request reasonable adjustments?

If you require an adjustment at work, you should first speak to your employer and explain why you need the adjustment. It is often helpful if you are as specific as possible. Tell them what the problem is and, if possible, what you would like them to do about it. It is generally good practice for an employer to take the advice of occupational health specialists when deciding what adjustments are required – sometimes this involves a request from that specialist for information from the disabled person's own medical specialists.

If your employer does not make the adjustment for you then you should put your request in writing to them. Again it helps if you are as specific as possible and tell them what difficulties you are having and what you would like them to do. You should also ask them to make the adjustment or give you their full reasons in writing why they cannot make these for you.

Hopefully, your employer will agree to make the adjustment for you. If not, this information can then help you to decide on whether your employer has a good reason for not making the adjustment. This may help you to decide if you want to take the matter further.

What do I do if my employer does not make an adjustment for me?

If you do not think that your employer has good reasons for failing to make an adjustment for you then you should submit a written grievance, or complaint, to your employer. It is often preferable to send this letter by recorded delivery. The letter should state your complaint about the discrimination or any other action that you

believe was unfair. This letter should be sent promptly and no later than a month or two months after the discriminatory act.

If this does not resolve the situation, you may wish to make a claim to the Employment Tribunal. Your claim should be submitted to the Tribunal on a form known as an **ET1**, available on the internet at:

Website: **www.employmenttribunals.gov.uk**

There are strict time limits for taking cases to the Employment Tribunal and you will need to submit your claim within three months minus one day of when your employer refuses to make the adjustment(s) for you or from when it becomes obvious that they are not going to make these for you.

Since May 2014, before you submit a tribunal claim, you are obliged to 'register' your claim with Acas first, within the original tribunal time limit (ie, three months minus one day) in order to give Acas a chance, if both parties are willing, to try to settle the matter on agreed terms. This is known as 'Early Conciliation' ('EC'). There is no obligation on you (or your employer) to actually engage in EC (ie, attempt to settle the matter through negotiations) but you must at least register the claim with Acas in order to be given a certificate of EC, as without that certificate you will not be able to issue a tribunal claim. Your time limit to go to tribunal is suspended during the period of EC and starts running again as soon as the certificate is issued. Time limits here can be complicated – please take further advice and/or look at our Factsheet on 'Acas Early Conciliation'.

You can contact Acas to register for EC either by telephone (0300 123 1122) or online - <https://ec.acas.org.uk/Submission/Create>

Once you have your EC certificate, you can issue a tribunal claim by completing an ET1 form. For more information on completing this, please see our factsheet on Tribunal Tactics.

Discrimination questionnaires, which allowed an aggrieved party to ask questions of their employer in order to establish the strength of their case, have been abolished as from 6th April 2014. However, you can still ask written questions of your employer, and an Employment Tribunal may take notice of their answers, or failure to answer, when determining a discrimination case. Acas has published guidance on this means of obtaining information, which can be found at:

<http://www.acas.org.uk/media/pdf/m/p/Asking-and-responding-to-questions-of-discrimination-in-the-workplace.pdf>

Can I get any help with obtaining reasonable adjustments?

Access to Work is a scheme which is run by Jobcentre Plus. It can provide disabled people with financial support to help with increased costs for things such as travelling to work by taxi instead of using public transport, paying for a support worker, paying for specialized equipment or for physical alterations to the employer's premises. Access to Work may also be able to help if a disabled person needs a communicator or BSL interpreter at a job interview.

Am I eligible for Access to Work?

If you are disabled and feel that you may need help through Access to Work you will need to be:

- Already working in paid employment
- Unemployed and about to start a new job
- Unemployed and about to start a Work Trial
- Self-employed.

Your impairment must stop or prevent you from being able to do parts of your job or the job you have applied for. It may be that your impairment does not have a big effect on what you can do every day but it must be a long- term effect rather than something short-term like a broken arm.

How do I contact Access to Work?

If you feel that your employment is likely to be affected by your impairment and that this impairment is likely to last for at least 12 months, you should contact either your regional Access to Work contact centre or the Disability Employment Adviser at your local Jobcentre.

Regional Contact Centres:

London; South East England; Eastern England

Jobcentre Plus

Access to Work Operational Support Unit

Nine Elms Lane

London SW95 9BH

Telephone: **020 8426 3110**

Textphone: **020 8426 3133**

Email: **atwosu.london@dwp.gsi.gov.uk**

South West England; Wales; West Midlands; East Midlands

Jobcentre Plus

Access to Work Operational Support Unit

Alexandra House

377 Cowbridge Road East
Cardiff CF5 1WU

Telephone: **0345 268 8489**

Textphone: **0845 602 5850**

Email: **atwosu.cardiff@dwp.gsi.gov.uk**

**Scotland; North West England; North East England; Yorkshire and
Humberside**

Jobcentre Plus

Access to Work Operational Support Unit

Anniesland JCP

Baird Street

Glasgow G90 8AN

Telephone: **0141 950 5327**

Textphone: **0845 602 5850**

Email: **atwosu.glasgow@dwp.gsi.gov.uk**

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Disability Law Service

The Foundry,
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Vauxhall,
London
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Telephone: **020 7791 9800**

Minicom: **020 7791 9801**

Email: **advice@dls.org.uk**

Website: **www.dls.org.uk**

Registered Charity Number: **280805**

Company Registration Number: **1408520**

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