

Factsheet

Working with  
a disability



The IET Benevolent Fund

Disabled people may face discrimination in many aspects of their lives. However, this should not be something that we accept, especially in the work place. The Disability Rights Commission works to secure full civil rights for disabled people in all areas of life.

If you are disabled, or have had a disability, the Disability Discrimination Act (DDA) makes it unlawful for an employer to discriminate against you when you are applying for a job or are in employment. This includes:

- application forms
- interview arrangements
- proficiency tests
- job offers
- terms of employment
- promotion, transfer or training opportunities
- benefits
- dismissal or redundancy

Employers have a duty to take any reasonable steps they can to reduce or remove any substantial disadvantage caused to a disabled employee or job applicant by any of the employment arrangements or any physical feature of the premises. This is the duty to make 'reasonable adjustments'.

If you believe your employer or colleagues are treating you unfairly because of your disability, you will find that this fact sheet explains some steps you can take which may help resolve the problem - from talking about it informally, making a formal complaint (in accordance with the grievance procedure of your organisation), to applying to an employment tribunal.

## **How does the DDA affect jobs with charities as employers of disabled people?**

Charities set up to help people with a particular disability, and organisations offering supported employment to disabled people, may discriminate in favour of certain disabled job applicants and employees.

## **Can an employer positively discriminate in favour of job applicants or employees under the DDA?**

The DDA does not prevent employers from putting in place arrangements that provide more favourable treatment to disabled people than non-disabled people.

## **What if I work on contract?**

If your employer hires you out to work for someone else ('the Contractor'), you will still be protected by the DDA. It will be unlawful for the Contractor to discriminate against you by, for example, preventing you from doing the work or giving you the work but on worse terms unless the Contractor can show such discrimination is justified.

The Contractor may also have a duty to make reasonable adjustments, which may have to be made by your employer, or the Contractor, or even by both of them.

If you have a hearing impairment, for example, it might be reasonable for your employer to have to provide you with a portable induction loop to use when you are hired out. It might also be reasonable to expect the Contractor to have to co-operate with the use of the loop.

## **What if I do voluntary work regularly with a charity?**

The DDA uses the same wide definition of employment as found in the Sex Discrimination Act 1975 and the Race Relations Act 1976. (That is 'employment under a contract of service or of apprenticeship or a contract personally to do any work'.)

Whilst voluntary workers are not mentioned in the DDA, you will be covered by its employment provisions if you are employed as defined above. However, this is a difficult area and it is unlikely that many voluntary workers will be employees under the DDA.

## **Can an employer ask me about my disability on application forms?**

Under the DDA employers are not prevented from asking you for information about your health or disability but they must not use it to discriminate against you.

If all job applicants are asked for the same information and this information is, or may be, relevant to the ability to do the job (after a reasonable adjustment), this would not be discriminatory. Asking about the effects of your disability might also be important in helping your employer to decide what adjustments ought to be made.

### **Do I have to declare my disability to my employer?**

It is up to you whether you wish to tell your employer about your disability. However, if your disability actually affects your way of working, you should talk to your employer and to your colleagues about it if you want a reasonable adjustment to be considered.

If your employer doesn't know that you are disabled, they cannot make changes that would help you. However, if, for example, your condition gets worse (e.g. asthma) and you feel you may need a reasonable adjustment, you can tell your employer at a later date. From that time onwards your employer may have to take some action.

### **What should I expect my employer to do about reasonable adjustments?**

Your employer or prospective employer must consider whether the employment arrangements or any physical feature of the workplace are putting you at a substantial disadvantage. Your input will obviously be very useful in this process. Although your employer is only obliged to do something if the disadvantage is substantial, you may want to draw more minor inconveniences to your employer's attention.

### **What sort of adjustments might my employer have to consider?**

Here are some examples of adjustments given by the DDA, which you and your employer may find useful, although others may be more appropriate for your particular circumstances:

- making adjustments to premises
- allocating some of your work to someone else
- transferring you to another post or another place of work
- being flexible about your hours - allowing you to have different core working hours and to be away from the office for rehabilitation,
- assessment or treatment
- providing training
- using modified equipment
- making instructions and manuals more accessible

- using a reader or interpreter
- being supervised.

If your prospective employer is aware of your disability, adjustments should begin at the recruitment stage. They might include the arrangements and location for the interview, induction arrangements, terms and conditions of employment, promotion, transfers, dismissal, training and any benefits provided to staff (for example, social clubs, luncheon vouchers and bonuses).

You do not have to pay for any part of a reasonable adjustment. Your employer can get support from the Access to Work scheme, operated by your local Jobcentre Plus. This can provide money to cover the cost of reasonable adjustments.

There may be some circumstances where everyone stands to benefit from common sense solutions. If, for example, your employer provides company cars for visiting clients off-site but you drive your own adapted car, it could be reasonable for your employer to allow you to use your own car and pay you an allowance to cover your costs.

### **How does my employer decide what is reasonable?**

There are no cut and dried rules because everyone's circumstances are different. Ultimately, if you were to complain under the DDA, an employment tribunal would decide whether any adjustment was a reasonable one for the employer to have to make in all the circumstances. It would also be up to the tribunal to decide whether your employer's treatment of you was justified or not.

### **What about other laws such as health and safety legislation?**

The DDA does not mean that your employer would have to do anything, which would result in other laws being broken, such as health and safety legislation. Your employer should, however, consider whether there are reasonable adjustments that could be made which wouldn't break other laws.

### **What can I do if my employer and I can't agree?**

If you believe that your employer has treated you less favourably than others because of your disability or if your employer has not made reasonable adjustments, you may consider further action. This might include:

- having an informal discussion with your employer about your needs and reminding him or her of anything that you feel is relevant in the DDA
- making a complaint about your treatment through the organisation's grievance procedure

- following the 'questions procedure' and/or making a complaint to an employment tribunal.

Do bear in mind that there are time limits for using the questions procedure or complaining to an employment tribunal, which don't take into account the time involved in following internal procedures.

### **Who can I ask for help and advice if I think that I have been discriminated against?**

Disability organisations and trade unions may be able to offer help and advice.

The Advisory, Conciliation and Arbitration Service (ACAS) has a nationwide network of Public Enquiry Points which answer queries on employment law and related issues. ACAS can also arrange for a conciliation officer to try to help you and your employer settle any potential or actual tribunal claim. The telephone numbers of all ACAS offices are in the telephone directories.

The Employment Tribunal Service (ETS) can give information about tribunal publications, explain how the tribunal system works and answer general queries about tribunal matters. For copies of free ETS leaflets or further information, call the ETS Enquiry Line on 08457 959775 or 08457 573722 (textphone), which is open from 9am to 5pm Monday to Friday.

In Northern Ireland, the Labour Relations Agency can answer general queries and the Office of Industrial Tribunals and Fair Employment Tribunals has produced an information leaflet explaining how employment tribunals work. Tel: 01232 327666.

Citizens Advice Bureaux, Law Centres and solicitors can give help and advice on your legal rights.

### **Does anyone other than an employer have duties in relation to employment?**

The DDA might be relevant if:

- your employer leases the employment premises- where a landlord would be held accountable to the DDA, if refusal of adjustments was deemed unreasonable.
- if there is an occupational pension scheme- The 'non-discrimination' rule means that trustees or managers of the scheme are under similar duties as employers not to treat disabled people less favourably because of a reason related to their disability

- you think you are being discriminated against by an insurance company, which provides group insurance for employees- The insurer must treat you in the same way as it would treat disabled members of the public if they were seeking insurance.
- if you are joining, or are a member of, a trade organisation- Trade unions and chartered and professional institutions cannot refuse you membership, or offer you less favourable terms of membership, without justification.

### **Making a Claim at an Employment Tribunal - 1**

There are a number of issues that you need to consider before you submit a claim of discrimination to an employment tribunal.

#### **Am I a disabled person according to the Act's definition?**

A claim of discrimination on the grounds of disability cannot proceed if you are not considered to be a disabled person for the purposes of the DDA.

If your employer does not agree that you are disabled, it is useful to get some medical evidence from your GP or consultant about your disability, treatment for it and the likely effect of your disability if you were not having treatment.

#### **Have I been discriminated against applying for a job?**

It is against the law for employers to discriminate against a disabled person:

- in the way they decide who gets the job - for example, the way the applications are handled.
- the way the interview is carried out or tests given to candidates.
- in the terms on which they offer a job - for example, by giving only a short-term contract.
- by refusing or omitting to offer a job.

#### **Have I been discriminated against at work?**

It is against the law for an employer to discriminate against a disabled worker:

- in their terms and conditions of employment.
- in chances for promotion, transfer, training or other benefits, and/or by refusing to give them these chances.
- by dismissing them unfairly.
- by treating them less fairly than other workers.

#### **What does "discriminate" mean?**

According to the DDA there are two types of disability discrimination: (a) less favourable treatment, and (b) failure to make a reasonable adjustment.

(a) Less favourable treatment - An employer discriminates if he: treats a disabled person less favourably than other people (for a reason related to his or her disability) and cannot justify this treatment.

For example: a disabled man took six weeks off work due to his spondylitis and was dismissed because of this. The employer usually dismissed anyone who had more than four weeks off. If the disabled man had not had the back condition, he would not have had the six weeks off and would not have been dismissed. He was treated less favourably (for a reason relating to his disability) than other workers to whom that reason did not apply.

(b) Failure to make a reasonable adjustment

Employers also discriminate if: without being able to justify it, they don't take reasonable steps to prevent a disabled person from being at a substantial disadvantage because of any working arrangements or physical features of the premises. This is commonly known as the duty to make "reasonable adjustments".

### **Can the employer justify the discrimination?**

An employer may be able to oppose your claim by showing that his/her actions were justified. To do this the employer must have a good reason, which is relevant.

### **Victimisation**

It is also possible for anyone to claim victimisation if they have been treated less favourably because of something they have done in connection with the DDA. For example:

alleging your employer has discriminated against a disabled person giving evidence in proceedings brought under the Act.

You can bring a claim for victimisation under the Act whether or not you have a disability.

### **Grievance procedures**

If you are employed, there should be a grievance procedure at your workplace. You should consider using this before bringing a claim (unless you have already been dismissed or you have not yet been employed). You should complain in writing and keep a copy. If you are a member of a trade union, your union representative might be able to help you.

### **Claim time limit**

You must bring your claim within three months of the act of discrimination. This means that the last possible date for your application to reach the tribunal in time is three months minus one day from the date of the act you are complaining about, (for example, if it happened on 30 March, your application must reach the tribunal by 29 June).

### **The next step**

If you are unsure about making a claim, but think that you may have been treated unfairly because of your disability, then you can send your employer or prospective employer a questionnaire to find out more about the way they have treated you.

### **How to make a claim to an employment tribunal - 2**

When claiming discrimination, you have to prove that you have been discriminated against. The "burden of proof" rests with you. It can often be difficult to prove discrimination, particularly if you have been turned down for a job, as the employer is likely to have the information you need for your case. In that case, it can be very useful to send a questionnaire to the employer. The government has produced a standard questionnaire form -DL56 – which can be requested from the DRC helpline: 08457 622633.

### **Disability**

It may help at the start to find out if the employer accepts that you have a disability under the Act. You can ask whether she accepts this or not, and, if not, why not?

### **General Questions**

Some questions are likely to be relevant for ALL claims brought under the Act. These include:

How many disabled people are employed?

What percentage of the workforce is disabled?

How many people with your disability are employed, and what are their jobs?

Does the employer have an equal opportunities policy and disability policy?

Details of training on equal opportunities and the Act that are given to staff, particularly those responsible for recruiting or managing you.

## **Recruitment**

Questions you may want to ask in a recruitment case include:

Details of the other candidates, (highlighting the successful one) including their experience and qualifications.

You can also ask for copies of the application forms (all these would have to be given with identifying details removed) reasons why you were not appointed.

Details of notes and scoring system used during the interviews, and copies of these notes.

Details of the positions or jobs held by all of the panel members.

Details and copies of recruitment policies.

## **Reasonable adjustments**

Details of what adjustments were considered, by whom and when

Details of contact with outside agencies, such as Royal National Institute of the Blind (RNIB), Royal National Institute of the Deaf (RNID), Employment Service, about "reasonable adjustments".

Why adjustments were not made/considered, who made the decision and when?

How much money the employer has.

## **Dismissal**

Full details of the reasons for dismissal.

Whether another job in the company was considered for you.

What vacancies were available?

Who made the decision to dismiss, and why - and any notes made about the dismissal.

## **Redundancy**

Details of why there were redundancies.

Details of why you were made redundant.

What pool of people was considered for redundancy and why?

What reasons were used to decide who was made redundant?

Notes and scoring sheets for each worker considered.

## **The employer's response**

If the employer does not respond within the time you have given, and has not acknowledged the questionnaire, you should send at least one follow-up letter. You can say in this that if he does not respond within the next, say, seven days you will be telling the tribunal and asking them to draw an "adverse inference" - that is, to hold it against the employer.

Remember you still only have three months minus one day from the date of the discrimination to bring your claim - whether or not the employer has responded to your questionnaire.

Alternatively you could use the IT1 from.

You do not have to use a special form to apply to the tribunal, but it is much easier to use the IT1, which is a tribunal application form with different sections. You can get these from your local Job Centre or by calling 0845 7959 775. You do not have to pay to make a claim to the tribunal.

If you lose your case, you might have to pay the employer's costs, but this is very rare - for example, if the tribunal thought you behaved unreasonably.

### **Concluding**

There is no reason why a person with a disability cannot enjoy a great working life. For many people work is not only about income, but also about having a focus in life and a feeling of self-esteem. There is no reason why this should not be available to all, regardless of disability. Following are a list of useful contacts for employers and people with disabilities, which will help deal with the issues around working with disability.

### **Useful Contacts**

Jobcentre Plus: (part of the Department for Work and Pensions)

Web: [www.jobcentreplus.gov.uk](http://www.jobcentreplus.gov.uk)

Provide services for people with disabilities and their employers, including the Access to Work scheme for the provision of equipment, adaptations and transport. Contact the Disability Services Team through your local Jobcentre Plus.

Disability Law Service, 39-45 Cavell Street, London, E1 2BP.

Tel: 020 7791 9800

Charity offers free legal advice and a casework service to disabled people, their enablers, families and other organisations.

Disability Rights Commission

DRC Helpline, Freepost MID 02164, Stratford-upon-Avon, CV37 9BR.

Tel: 08457 622 633

Web: [www.drc-gb.org](http://www.drc-gb.org)

Provides advice on the Disability Discrimination Act at work.

EDIT (Enabling Disabled people through Information Technology).  
Unit 10, Burslem Enterprise Centre, Moorland Road, Burslem, Stoke-on-Trent, Staffordshire, ST6 1JQ. Tel: 01782 836 992  
Seeks to improve the prospects of disabled people by providing free training in IT and other business skills.

Employers Forum on Disability  
Nutmeg House, 60 Gainsford Street, London, SE1 2NY.  
Tel: 0207 403 3020 Web: [www.employers-forum.co.uk](http://www.employers-forum.co.uk)  
Employer's organisation focused on disability in the workplace.

Employment Opportunities  
123 Minorities, London, EC3N 1NT.  
Tel: 020 7481 2727 Web: [www.opportunities.org.uk](http://www.opportunities.org.uk)  
National Charity helping people with disabilities find and retain work. Also provide a range of support and advice to employers on disability and employment issues.

Equality Direct  
Tel: 0845 6003 444 Web: [www.equalitydirect.org.uk](http://www.equalitydirect.org.uk)  
Advice and guidance service for business managers on a range of employment and equality topics, including disability.

Jobability  
Web: [www.jobability.com](http://www.jobability.com)  
Partnership between Leonard Cheshire, Microsoft and totaljobs.com. The website gives disabled people access to a wide variety of jobs as well as career advice.

Leonard Cheshire Workability  
30 Milbank, London SW1P 4QD.  
Tel 020 7 802 8200 Web: [www.leonard-cheshire.org](http://www.leonard-cheshire.org)

Aims to break down the barriers that confront disabled people in trying to access training and employment. Provides opportunities for disabled people by giving them Internet-linked IT equipment, training in its use and support and guidance in the job search.

Princes Trust  
18 Park Square Est, London NW1 4LH  
Tel: 0800 8f42 842 Web: [www.princes-trust.org.uk](http://www.princes-trust.org.uk)  
Helps 14 to 30 year olds to develop confidence, learn new skills and get into work.

RADAR (Royal Association for Disability and Rehabilitation)  
12 City Forum, 250 City Rd, London EC1V 8AF.  
Tel: 020 7250 3222      Web: [www.radar.org.uk](http://www.radar.org.uk)      Publications  
and advice on employment and employment issues.

Remploy  
Tel: 0800 138 7656      Web: [www.remploy.co.uk](http://www.remploy.co.uk)  
Aim to expand employment opportunities for the disabled. Its  
Interwork service helps people find work, either within Remploy or by  
providing the support necessary to facilitate employment in an  
external company.

RNIB (Royal National Institute of the Blind)  
Education & Employment Centre, 105 Judd Street, London, WC1H 9HE.  
Tel: 020 7388 1266      Web: [www.rnib.org.uk](http://www.rnib.org.uk)  
Helps visually impaired people to find, keep progress in suitable jobs.  
Can help get the skills necessary to compete in the job market, and  
raise awareness amongst employers about the contribution people  
with sight problems can make.

RNID (Royal National Institute for Deaf People)  
Employment, Learning and Skills Service, 19-23 Featherstone Street,  
London EC1Y 8SL.  
Tel: 020 7926 8000      Text: 020 7296 8001  
Web: [www.rnid.org.uk](http://www.rnid.org.uk)      Email: [information@mid.org.uk](mailto:information@mid.org.uk)  
Advice for hearing impaired people and employers. Help with training  
and job placements as well as employment.

Sabre Employment Ltd.  
Unit 1-3 Deptford Park Business Centre, Grinstead Road, London SE8  
5AD.  
Tel: 020 8305 6060      Web: [www.sabre-employment.co.uk](http://www.sabre-employment.co.uk)  
Charity that specialises in the recruitment of disabled people. Offers  
services to both job seekers and employers.

SCOPE (for people with cerebral palsy)  
Employment Support Services Agency, Scope's Employment Services,  
Sterling House, 10 B Harding Way, St. Ives PE17 4WR.  
Tel: 01480 309615      Web: [www.scope.org.uk](http://www.scope.org.uk)  
Offer a range of services for people with cerebral palsy through a team  
of employment officers.

Shaw Trust

Shaw House, Epsom Square, White Horse Business Park, Trowbridge, Wiltshire, BA14 0XJ.

Tel: 01225 716350

Web: [www.shaw-trust.org.uk](http://www.shaw-trust.org.uk)

National Charity that provides training and work opportunities for people who are disadvantaged in the work place due to disability, ill health or other social circumstances.

#### Skill

Chapter House, 18 -20 Crucifix Lane, London, SE1 3WJ.

Tel: 0800 328 5050

Web: [www.skill.org.uk](http://www.skill.org.uk)

The National Bureau for students with disabilities. Promotes opportunities for young people and adults with any kind of disability in post-16 education, training and employment across the UK.

#### TELEWORKING

Organisations that provide advice, information or services on working from home to individuals and/or employers.

British Telecom

Web: [www.wfh.co.uk](http://www.wfh.co.uk)

Homeworking.com

C/o Knowledge and Computing, 33 Reginald Street, Derby DE 23 8Fr.

Web: [www.homeworking.com](http://www.homeworking.com)

The Home Business Alliance

FREEPOSTANG3155, March, Cambridgeshire PE14 9BR.

Tel: 0870 749 6321

Web: [www.homebusiness.org.uk](http://www.homebusiness.org.uk)

The Institute of Occupational Safety and Health

The Grange, Highfield Drive, Wigston, Leicestershire LE18 1NN.

Tel: 0116 257 3100 Web: [www.iosh.co.uk](http://www.iosh.co.uk)

Have a free information sheet on teleworking aimed at employers.

The Telework Association

Tel: 0800 616008

Web: [www.tca.org.uk](http://www.tca.org.uk)

IET Connect, the IET Benevolent Fund, gives advice and support to IET members and former IEE members, and their families.

For further information contact IET Connect Helpline 0845 685 0685

