Reasonable Adjustments

An Advice Guide for Usdaw Reps

USDAW EQUALITIES

What Are Reasonable Adjustments?

This leaflet aims to give reps more information about supporting disabled members at work.

Disabled workers have rights at work and one of the most important of these is the right to reasonable adjustments.

The duty to make reasonable adjustments is a really important right that can make a big difference to disabled members' working lives.

If there is something at work that is causing significant problems for a disabled member – or, as the law refers to it, something that puts them at a 'substantial disadvantage' – then their employer must do something about it. A substantial disadvantage means something that is more than minor or trivial.

If a substantial disadvantage does exist, the employer must make reasonable adjustments. The aim of the adjustments the employer makes is to remove or reduce the substantial disadvantage.

Reasonable adjustments are sometimes wrongly thought of as special or unfair treatment. Employers may ask why disabled workers should get extra support when surely we aim to treat everyone the same; isn't that what equality is all about? But if we treat everyone the same, we will never win equality for disabled workers.

Who is Entitled to Reasonable Adjustments?

You are entitled to reasonable adjustments at work if you meet the definition of a disabled person as set out in the Equality Act 2010 (Disability Discrimination Act in Northern Ireland).

To meet the definition of a disabled person and be entitled to reasonable adjustments, you have to show the following:

That you have a physical or mental impairment that has lasted, or is likely to last, 12 months or more, which has a substantial negative impact on your ability to carry out normal day-to-day activities.

A really wide range of conditions, including asthma, depression, anxiety, migraines, COPD, arthritis, diabetes and many more, have been shown to meet the definition of disability under the terms of the Equality Act (Disability Discrimination Act in Northern Ireland).

The Usdaw leaflet *Supporting Disabled Members (Leaflet 383)* properly explains what this definition means and how to go about proving that the member you are representing is covered by it.

View or download the leaflet at: **www.usdaw.org.uk/383**

What Barriers Do Disabled Workers Face?

There are numerous ways in which work can put disabled members at a substantial disadvantage. Sometimes these barriers are obvious, but other times less so.

- A member who is a wheelchair user works in a store where the staff canteen is up a flight of stairs. The member cannot get to the canteen without a lift, which the store does not have.
- An autistic member works in a convenience store where her shifts are constantly changing at very short notice. The member needs routine and a stable working pattern, otherwise she will not be able to carry on working there. The lack of a stable shift pattern is putting the member at a substantial disadvantage.
- A checkout operator is required to make eye contact with, and talk to, every customer. The member has depression and has days where he feels hopeless and is very tearful. The requirement to smile and chat to every customer is placing him at a substantial disadvantage.

If these members don't get the reasonable adjustments they need, they won't be able to carry on working.

Take the three examples given on page 2. In each case, a non-disabled worker might like the chance to use the lift, to have a regular shift pattern or to not talk to customers.

But for the disabled members in question, these aspects of their job or workplace are potentially game-changing and, without these, they can't carry on in work.

The duty to make reasonable adjustments means that sometimes it will be necessary for employers to treat disabled workers more favourably to help overcome the additional barriers they face. The law is absolutely clear that this is OK.

The law allows employers to treat disabled people more favourably than non-disabled people, and recognises that sometimes this may be part of the solution.

What Else Do I Need to Know About Reasonable Adjustments?

- Adjustments might be needed for a long time.
- A combination of adjustments may sometimes be needed.
- The employer should always consult the disabled member, ask what they need and not make assumptions.
- The employer can refuse to make adjustments by saying they are not reasonable. Contact your Area Organiser if this happens. Experience suggests that the types of adjustments our members need are often low cost and relatively easy to put into place, and therefore would be classed as reasonable.

When deciding whether or not an adjustment is reasonable, the following should be taken into account:

- Is it effective and practical – does it put the disabled worker on a more equal footing with their non-disabled colleagues?
- The cost of an adjustment – the entire resources of the company are taken into account when considering cost, not just those available to your site or store.

Help towards the cost of an adjustment may be available from Government in the form of an Access to Work grant (there is a different system in Northern Ireland).

Call **0800 121 7479** or visit:
www.gov.uk/access-to-work

In Northern Ireland, visit:
www.nidirect.gov.uk/articles/access-work-practical-help-work

What Kinds of Adjustments Do Usdaw Members Need?

There's no 'one size fits all' approach to reasonable adjustments and it is vital that the employer asks disabled members what they need rather than making assumptions.

An Usdaw member with a visual impairment found that her employer had ordered a range of visual aids that she didn't need to do her job. It is patronising, unhelpful and can be expensive for employers to not talk to the member about what they need!

Here are some examples of reasonable adjustments that Usdaw reps have negotiated:

- A member in a distribution site with depression and anxiety had their shifts changed as their medication made them feel very sleepy in the morning.
- A member with a learning disability who struggled to understand verbal instructions was being disciplined for not accurately carrying out shelf-filling duties. The member was given additional support, including extra time to learn new tasks that in future they would be shown how to do by another member of staff.
- A member with diabetes was given an additional tea break to enable them to take medication and regulate with food.

"A member in my store who has a learning disability had made some mistakes with money and was potentially facing disciplinary action because of this. I talked to the member and his family to get a better understanding of the kinds of support he needed at work. Because the Union got involved, we got the right outcome; the member is being given more training and one-to-one mentoring, and his hours on the till are being reduced as there are other roles he can carry out to fulfil his contract. The member sometimes got confused when having to deal with multiple tasks at the till – lottery, paypoint, vouchers.

Sometimes, members are reluctant to say they are struggling, but the Union has a crucial role to play in helping members feel able to be open about needing extra support in the form of reasonable adjustments."

Experience from an Usdaw rep

The Social vs the Medical Model of Disability

For some time now, disabled people have emphasised that it is not so much their disability that prevents them from fully participating in society, but instead it is the way in which society fails to make adjustments for their disability that excludes them.

This emphasis on changing the barriers put up by society, rather than seeing the disabled person as the 'problem', is known as the 'social model of disability'. In other words, disabled people are people with impairments/ health conditions who are disabled by discrimination, exclusion, prejudice and negative attitudes towards disability. Their impairment is not the problem.

The 'medical model' attributes the problems resulting from a disability to medical conditions alone. It concentrates on a person's impairment. Rather than focusing on the barriers society throws up that prevent disabled people from participating equally, the 'medical model' focuses on what disabled people should do to adapt to fit into the world as it is. If they are unable to adapt, the medical model accepts their exclusion.

For example, while a mobility difficulty can have an adverse effect on a person's ability to walk, the fact that the transport system is inaccessible to them has a far greater effect on their ability to get around.

Unfortunately, the law is rooted in the medical model. It has been rightly criticised for focusing on an individual's impairments and their ability to carry out normal day-to-day activities, rather than on getting rid of the barriers society puts in the way of disabled people.

This booklet is designed to help understand how the law can support disabled members in the workplace, and therefore tends to focus on the medical model.

More Information

Usdaw Nationwide

Wherever you work, an Usdaw rep or official (Area Organiser) is not far away. For further information or assistance, contact your Usdaw rep or local Usdaw office. Alternatively, you can phone our Freephone Helpline **0800 030 80 30** to connect you to your regional office, or visit our website: **www.usdaw.org.uk**
You can also write to the Union's Head Office. Just write **FREEPOST USDAW** on the envelope and put it in the post.

Join Usdaw

You can join online at:
www.usdaw.org.uk/JoinUs

Scan to join today

What Happens Next

Once we process your application, you will receive a membership card with our Helpline telephone number and a New Member's Pack giving details of all the benefits and professional services available to you.

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Stock photography, posed by models

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