

Applying the disability legislation to staff

If you are not a disabled person, the following information is still important – because there is a high probability that some of your colleagues or students will have a disability. Part of your responsibility is to ensure that you treat others appropriately.

Institutions may not treat a disabled employee or potential employee less favourably than they would treat someone who is not a disabled person - unless this treatment is one of the very rare occasions when such discrimination can be objectively justified (and you must get legal advice before claiming that there is such a justification). However, employers are permitted to treat a disabled person more favourably than others, should that be necessary to meet their needs.

The UK Labour Force Survey regularly shows that approximately 20% of the working age (16-60 years) population self-disclose a condition which could mean that in law they are a disabled person. However, many people do not realise that their own situation is covered by the law and so do not necessarily identify themselves as disabled – yet they are still protected by the law from the moment when their condition is diagnosed.

The most common forms of impairment are specific learning differences (eg dyslexia) and chronic physical and mental health conditions such as asthma, epilepsy, diabetes, clinical depression and anxiety disorders. These conditions are often 'invisible' to a casual observer, as are some sensory impairments (eg deafness, partial sight), so it is important to realise that you may not know who is, or is not, a disabled person and to take this into account when considering any response to the actions of others. Those disabled people who have easily observable impairments (eg those who need to use a wheelchair due to a mobility impairment or a white cane due to a visual impairment) may have more easily recognised needs, but this does not mean that you can ignore the needs of those with less visible conditions.

Institutions and their staff must make 'reasonable adjustments' in order to meet the needs of an individual disabled person, whether that person is a student or an employee. In practice, this means that you may sometimes be asked to do something in a different way in order to meet the needs of a disabled colleague. You do not have an automatic right to know the details of your colleague's condition, which are confidential - the disabled person may decide who can or cannot know. You do not usually need to know those details to be able to carry out an adjustment. For example, you could be asked to take on some teaching scheduled in the mornings so that a colleague can work in the afternoons - you do not need to know why they need to work afternoons in order to agree to this adjustment.

You do not necessarily have to make a reasonable adjustment – for example if you believe that it would compromise academic or other standards (eg the requirements of certain professions) or if it would create a situation which is significantly detrimental to other people or if it is simply impractical. However, your concerns should be discussed in detail with your institution's human resources manager, preferably before you actually need to refuse to make the adjustment. It may be possible to identify an alternative adjustment or it could be necessary to negotiate a lesser adjustment which would at least partially meet the person's needs.

In practice, all of this means that you need to pause and consider whether someone's situation could include some disability issue and to think very carefully on any occasion when you think you may need to treat a colleague differently from other people in similar circumstances. If at all possible, you should get expert advice from your institution's human resources managers or its Disability Service - this is not a matter where you can rely on general knowledge or on 'common sense'.

If you were to treat a disabled colleague in a discriminatory fashion, being an international member of staff and unfamiliar with UK society would be no defence. You could be subject to an institutional disciplinary process or possibly even find yourself a witness in a court case where the disabled person is suing your employer as a result of your behaviour – either of which could have significant consequences for your career.

I'm a disabled person, what are my entitlements as an employee?

Employers have several obligations and duties:

- To actively promote equality of opportunity, including training all staff in disability awareness and undertaking improvements where issues are identified.
- To encourage the participation of disabled people (and others who are either from under-represented groups or who have certain protected characteristics¹).
- Not to treat disabled people less favourably than they would treat others.
- To make reasonable adjustments to meet the needs of an individual disabled person.
- The duty to anticipate the needs of disabled people in general applies to service provision (including education and training), not to employment, but this may occasionally be relevant to an employee. If your impairment is one which is obvious to a casual observer, then the employer's duty becomes applicable as soon as they are aware of your situation.
- If your impairment is not obvious, then the employer cannot be expected to be aware of it until either you decide to make a disclosure or it becomes apparent by some other route, such as from a sick note. You need to consider at what point you wish to make that disclosure (many people wait until after accepting the job offer, for example).

In either case the employer should ask you whether you have any needs (eg do you require any adjustments in the application and selection processes?) and they should cooperate with you in identifying and making any necessary reasonable adjustments.

If the employer does not ask you whether you are disabled or what needs you may have, contact the human resources department and ask what support they can offer. They may or may not have someone who specialises in supporting disabled staff, but if necessary they should be able to obtain advice from other sources – sometimes the institution's Student Disability Service can provide advice.

If the adjustments you need have some financial cost attached, then you may need to make an application to the government's Access to Work scheme to assist your employer with the costs. More information on this scheme, including the details of your nearest AtW office is available on the [Access to Work website](#).

Reasonable adjustments might include allowing you more time to complete certain tasks, or providing specialist equipment for you to use (ergonomic equipment or assistive technology can make a big difference to your comfort when using a computer and how easily you can access websites, emails and documents). Adjustments can also include changes to your work pattern (eg adjusted start/finish times or allowing you to work your hours flexibly, so you can do more hours in term time and fewer hours in the vacations) or changes to working practices (eg exchanging some tasks with a colleague). There can also be support workers - some disabled people may find it helpful to have a personal assistant, mentor², sign language interpreter or note-taker, for example.

If you are unsure what adjustments might be helpful, you could request a needs assessment by a disability specialist who should have ideas for you to consider. If your employer's human resources department do not have a specialist available, the Student Disability Service may be able to help.

Ultimately, if your employer fails to meet your needs you should complain. If the result is unsatisfactory then you have the right to either use internal procedures (eg the staff grievance process) or you can get legal

¹ See the briefing on the Equality Act on the International Staff website.

² A mentor is a person who is not part of the employer's line management structure who can provide you with regular appointments (usually one hour per week or per fortnight) to allow you time to talk over any issues which might be difficult at work, or to help with organising your time or planning your career development.



assistance to take the matter to court or an employment tribunal to obtain some redress (which can include financial compensation in some circumstances).