

Supporting occupational therapists & students with disabilities through reasonable adjustments

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Introduction

A reasonable adjustment is a modification an employer can make in order to allow a disabled employee to carry out their duties in work without any disadvantages. This briefing outlines what is required of the duty to make a reasonable adjustment under the Equality Act for occupational therapists and students with disabilities. Two examples have been added at the end of this Briefing to illustrate reasonable adjustments for the employee.

The duty

The duty to make reasonable adjustments under the *Equality Act 2010* (Great Britain. Parliament 2010), which superseded the Disability Discrimination Act of 1995 and 2005 (Great Britain. Parliament 1995 and 2005), ensures that, as far as is reasonable, a disabled employee has the same access and rights in a job as a person that is not disabled. The employer has a duty to take positive steps to ensure that where necessary, or as far as reasonable, a disabled employee can undertake any role without any disadvantages. This also ensures equal opportunities.

Reasonable adjustment can vary dependent on the need, for example:

- Installing a ramp to the front of a building to allow wheelchair access.
- Providing specialist equipment for employees who may have arthritis or who may be visually impaired.
- Providing a quiet working space for employees with dyslexia or social anxiety disorders.

The Equality and Human Rights Commission has produced a list of reasonable adjustment examples in practice. Please see the following web link for their examples -

<https://www.equalityhumanrights.com/en/multipage-guide/reasonable-adjustments-practice>

Definition of disability

The Equality Act 2010 defines a disability as follows:

A person has a disability if they have a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities. Physical or mental impairment includes sensory impairments such as those affecting sight or hearing (Pt2. 12 section s.6 (1).

Reasonable adjustment for the employee

If you are an occupational therapist, student or occupational therapy assistant who requires a reasonable adjustment there are a number of points you will need to consider before approaching your organisation.

If you feel that you have a disability and it is impairing the way you work, in the first instance speak with your employer or university to see whether they are able to provide some guidance. This person may be in the form of your line manager, supervisor, occupational therapy lead, human

resources manager, course tutor or occupational health department. It is advisable that you provide the relevant person with as much information as possible, making sure that they are well informed of your current situation and your possible needs.

Under the *Data Protection Act 1998* individuals have the right to confidentiality. Therefore, any information provided by you regarding a disability must be dealt with in a sensitive nature. The responsible person must not disclose any information without your explicit consent.

In the discussions with your organisation, it may be useful for you to suggest different types of reasonable adjustments which may be suitable. This will assist the organisation with accommodating your needs. Identify what is causing the difficulty for you and discuss ways in which you could alleviate the difficulty by implementing a reasonable adjustment.

Reasonable adjustment for the employer

As an employer you are expected to take practical steps as and when the need arises to ensure that any obstacles that a disabled employee may face whilst at work are removed and an adjustment is put in place.

Many factors are involved, including the size and nature of your organisation. Employers are expected to make reasonable adjustments only when they have been made aware of the difficulty that the employee may be facing.

There will be several factors to think about when making decisions as to what adjustments to make. Your decisions should be based on individual circumstances as different people will need different adjustments made to their working environment. It may be useful for you to meet with your employee to discuss the potential adjustments. This will ensure that what is in place is effective for both parties.

Deciding what is reasonable can be determined by the need of your employee. Most commonly simple adjustments can be made rather than major ones which can be costly and disruptive.

There are a number of tools and resources available that are designed to help you through this process. Some include;

Sickness Policy

- It is seen as good practice to have a sickness policy in place that includes what an employee can expect should they require a reasonable adjustment. This will help as a starting point in any discussions with your employee. Standard sickness policy may need to be adjusted for a particular individual.

Tailored adjustment agreement

- Provides the employee and employer with a record of the reasonable adjustments agreed.
- This is a live document that can be continually edited and updated should the needs of the employee change.
- Reduces the need to make repetitive reasonable adjustments should the employee change posts or have a change in their line management.

Wellness action plan –

This resource was designed for the user to monitor their wellness at work and to identify causes of illness or differences in their wellbeing. By completing a wellness action plan the employee is able to put strategies in place should they become unwell.

The employee along with their manager can refer to the plan at any time to ensure that active steps are taken to keep the employee well. It is important that the manager supports their employee through the development of the wellness action plan.

Mind have designed a wellness action plan guide which can be downloaded from their website - <https://www.mind.org.uk/workplace/mental-health-at-work/taking-care-of-your-staff/employer-resources/wellness-action-plan-download/>

Occupational therapists have the skills to assess occupational performance. Using a model such as the Person- Environment -Occupational Model (Law et al. 1996) can frame thinking and assist in identifying what adjustments and adaptations need to be made.

If a reasonable adjustment is not put in place

If a need for a reasonable adjustment has been identified and your organisation has not taken steps to rectify any possible barriers, it is suggested that in the first instance you try to resolve the issues locally. Seek guidance as to how this can be resolved by speaking to your local Unison representative or line manager.

If the issue continues and barriers still exist there may be a possibility that you could bring a claim against your employer for failing to implement an adjustment. In such cases you may want to think about contacting your local citizen's advice office or your local Unions representative.

Citizen's advice: <http://www.citizensadvice.org.uk/>

Unison: Fighting for fairness and equality

<https://www.unison.org.uk/about/what-we-do/fairness-equality/>

Health and Care Professions Council (HCPC) guidance

The Health and Care Professions Council (HCPC) 'Guidance on Health and Character' states:

The health declaration:

Standard 6.3 of our standards of conduct, performance, and ethics says: *'You must make changes to how you practise, or stop practising, if your physical or mental health may affect your performance or judgement, or put others at risk for any other reason.'* When you apply to our Register, we ask you to sign a declaration to confirm that you do not have a health condition that would affect your ability to practise your profession. We call this a self-declaration. You only need to declare information about a health condition if you believe that your health may affect your ability to practise safely and effectively. If you tell us you have a health condition that might affect your fitness to practise, we will use the information you give us to decide whether you should be registered.

You do not need to tell us about your health condition or disability if it does not affect your ability to practise safely and effectively, or you know you are able to adapt, limit, or stop your practise if your condition does affect your ability to practise. You should tell us about your condition if it affects your ability to practise safely and effectively, or if you are not sure whether you will be able to adapt, limit, or stop practising as needed if your condition affects your ability to practise. When we talk about 'health' we are not making judgements about whether people are 'healthy' or in 'good health'. We are also not making judgements about disabilities. You may have a disability or long-term health condition which would mean that you would not consider yourself to be in 'good health'. However, as long as you manage your condition or disability appropriately, and have insight and understanding, this will not prevent you from registering with us'.

<https://www.hcpc-uk.org/registration/meeting-our-standards/guidance-on-health-and-character/>

For students, the HCPC Guide 'Health, disability and becoming a health care professional' advice for prospective students: for example, page 21 states:

It is important to realise that students do not need to be able to do all types of practice placement to be able to show they meet all of the standards of proficiency needed before they can register with us. This is because our standards of education and training do not set the types or range of practice placements that will allow a student to meet the standards of proficiency for their profession. Some disabled students may not be able to complete certain types of practice placement, but there may be other placements in which they would be able to learn and practise successfully.

Page 23 states:

Staff in practice placement providers: By law, organisations which provide practice placements have a direct duty not to discriminate against disabled people and must consider any reasonable adjustments they could put in place to make sure their placement is accessible. It is important to have an open mind about the adjustments you could put in place and discuss these with the student, who may have ideas that you had not considered. Practice placement educators may want to consider the information on reasonable adjustments on page 18 when thinking about what adjustments they could put in place to support a disabled student. We have provided some examples of adjustments in practice placements to help you think about the adjustments you could put in place.

<https://www.hcpc-uk.org/education/learners/health-disability-and-becoming-a-health-and-care-professional/>

Reasonable adjustments example 1

Clare has dyslexia and is working in a fast pace acute ward in a hospital. She is finding it increasingly hard to keep on top of her record keeping and is falling behind.

In an appraisal it had been identified that Clare's dyslexia was affecting the way in which she worked and that it was impinging on her time management and the recording of case notes.

As a result it had been agreed that Clare would receive an allotted time each day to address her records management and complete notes. Additional supervision was offered and short 1-1 sessions were given weekly with the aim to help Clare plan and organise her workload.

This example shows that reasonable adjustment was cost effective, and no disruption was caused to other employees.

The Equality Act does not have one precise definition as to what is 'reasonable'. Ultimately it is up to you as the employer together with the employee to decide what will be suitable and reasonable.

Factors that may be considered when making a decision as to whether the adjustments are reasonable include:

- Cost of the adjustment.
- The availability of financial or other assistance.
- Has there been money already spent on adjustment?
- Effectiveness of preventing the disadvantage to continue.
- Practical steps needed – how practical is it to make the adjustment?
- Possible disruption caused to the company and other employees.

Reasonable adjustments example 2

Joe Bloggs a recent graduate was offered a rotational post at his local hospital. He suffers with Chronic Fatigue Syndrome; however it was identified that with help he could still work as occupational therapist. It was determined that there would need to be reasonable adjustments put in place to ensure that Joe could function whilst at work with the aim that his condition would not deteriorate.

Joe ensured that he noted his condition on his application form and also explained in detail at his interview about his disability and the possible barriers he could face. Joe was assured that whilst in post reasonable adjustments would be provided if and when needed.

Six months later Joe began to struggle whilst at work. He felt that his employers had not taken his condition into account and that no reasonable adjustments were put in place. As his condition deteriorated Joe was absent from work; and signed off sick by his doctor. Due to the pressure Joe felt from senior management he returned to work earlier than intended. On his return there was no phased work programme and Joe was expected to continue as he had previously. Joe has now been signed off from work for a second time and does not feel that he can return to the department based on the pressures at work, the lack of understanding of his condition and the unwillingness to make any reasonable adjustments.

What could have been done differently to help Joe?

There are a number of things that Joe's employer could have implemented. By making reasonable adjustments to Joe's working environment this would have enabled him to work more effectively.

Joe's employers were made aware of his disability at the application stage and again during the interview stage. Based on the information provided by Joe they offered him the post. Reasonable adjustments should have been discussed and a plan set in place at the initial stages of Joe's employment.

Types of adjustment that could have been made include:

- Lighter duties for a period of time.
- A change in Joe's working hours – shorter working days.
- Weekly supervision or mentorship to monitor Joe's progress and to quickly address any issues.
- Moving to a different post long or short term with lighter duties.

Finally, Joe had a responsibility to speak up and inform his employer when he began to find his working environment difficult. He could have approached his supervisor or manager and discussed his difficulties, perhaps providing suggestions on ways in which he could have continued to work with a reasonable adjustment in place.

Resources

Please visit <https://www.rcot.co.uk/> to view the most current versions of RCOT publications.

Royal College of Occupational Therapist (2021) *Professional standards for occupational therapy practice, conduct and ethics*. London: RCOT.

Available at: <https://www.rcot.co.uk/publications/professional-standards-occupational-therapy-practice-conduct-and-ethics>

Access to work Scheme

<https://www.gov.uk/access-to-work/overview>

All websites accessed on 28.03.2023.

References

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Department for Education and Skills (DfEE) (1995) *The Disability Discrimination Act*. London: HMSO.

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Great Britain (1998) *Data Protection Act*. London: The Stationery Office.

Law M, Cooper B, Strong S, Stewart D, Rigby P, Letts L. (1996) The Person-Environment-Occupational Model: A transactive approach to occupational performance. *Canadian Journal of Occupational Therapy* 63(1), 9-23.