

DEALING WITH DISABILITY IN RECRUITMENT AND EMPLOYMENT

GUIDANCE AND POLICY FOR SCHOOLS

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(Replaces 'Employing and Retaining People with Disabilities' – April 2005)



INVESTOR IN PEOPLE



**SCHOOLS' PERSONNEL
A COMPLETE HUMAN
RESOURCES SERVICE**

**DEALING WITH DISABILITY IN RECRUITMENT AND EMPLOYMENT
GUIDANCE AND POLICY FOR SCHOOLS**

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DEALING WITH DISABILITY IN RECRUITMENT AND EMPLOYMENT GUIDANCE AND POLICY FOR SCHOOLS

1. INTRODUCTION

The London Borough of Enfield, its Schools and others to whom it provides personnel services are committed to promoting equality for all in recruitment and selection, during employment and in the workplace generally. The provision of an environment free from discrimination, harassment and victimisation is a priority.

The Equality Act 2010, which came into force on 1st October 2010, harmonised all pre-existing discrimination laws – such as the Sex Discrimination Act, Race Relations Act and the Disability Discrimination Act – bringing them together in one piece of legislation.

Under the Equality Act, there are certain 'protected characteristics' that qualify for protection against discrimination. These protected characteristics include disability, the focus of this document. The Act makes it unlawful to discriminate against disabled people, including existing employees who are, or may become, disabled, as well as people who may wish to apply for a job or who the employer is considering for a job. Employers are only expected to do what is fair and reasonable, taking into account all the relevant and prevailing circumstances. The information below sets out what the law expects and what might be considered reasonable in this respect.

2. DEFINITION OF DISABILITY

2% of the UK working age population becomes disabled every year. There are approximately 10 million disabled people in Great Britain covered by the law. This represents around 18% of the population.

Under the Equality Act 2010, a person has a disability if s/he **'has a physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day to day activities'**.

Impairments include physical, e.g. mobility impairments; mental, e.g. learning disabilities and some mental illnesses if severe and long-term; sensory, e.g. hearing or visual impairments. Impairments covered would include, for example, wheelchair users, long-term medical conditions such as asthma and diabetes and fluctuating or progressive conditions, such as rheumatoid arthritis or motor neurone disease. Mental health conditions including bipolar disorder or depression, learning difficulties such as dyslexia and learning disabilities such as autism and Downs Syndrome are also covered.

Substantial means more than minor or trivial.

Long-term means the impairment has lasted, or is likely to last for at least 12 months or for the rest of the life of that person.

Special rules apply to people with certain impairments that are progressive, fluctuating or recurring. For example, people with cancer, multiple sclerosis and HIV/AIDS are deemed to be disabled people effectively from the point of diagnosis. People with severe disfigurements are automatically treated as disabled if the disfigurement has a substantial adverse effect on day-to-day activities. Some visual impairments in this category are also automatically treated as a disability under the Act.

Normal day-to-day activities are interpreted as activities that are carried out by most people on a regular and frequent basis. This would include, for example, using a telephone, reading a book or using public transport.

Conditions that are **NOT considered to be an impairment** for the purposes of the Equality Act 2010 include:

- addiction to alcohol, cigarettes or other drugs (unless they result from drugs that have been prescribed by a Doctor, or other medical treatment);
- seasonal allergic rhinitis (including hay fever);
- a tendency to start fires;
- a tendency to steal;
- a tendency to abuse others;
- exhibitionism;
- voyeurism.

Note also that the effect of wearing glasses or contact lenses should not be considered, unless the impairment is so “substantial” that even with glasses/contact lenses, the condition still has a “substantial effect.”

Where someone has a disability under the Equality Act an employer, or prospective employer, has a responsibility to make ‘reasonable adjustments’ to enable him/her to participate in the recruitment process and/or to enable him/her to carry out the duties of the job. Dealing with disability in recruitment, employment and making reasonable adjustments are all covered below.

3. TYPES OF DISABILITY DISCRIMINATION

As an employer, it is important to avoid the following types of discrimination.

Direct Discrimination –

This occurs when a disabled person is treated less favourably than another person because of their protected characteristic – in this case, disability. An example might be where a job applicant meets all the criteria set out in the person specification but the employer decides not to shortlist because s/he is disabled.

Indirect Discrimination –

This can occur when the employer has a condition, rule, policy or practice that applies to everyone but has the effect of particularly disadvantaging disabled people, or people with a particular disability. However, it will only be indirectly discriminatory if it cannot be objectively justified. It can be objectively justified if the employer can show that it is ‘a proportionate means of achieving a

legitimate aim.’ In other words, the employer must show that s/he is acting fairly and reasonably in organising and running the business, even though this is disadvantaging a particular group of people.

Discrimination Arising from Disability –

This may happen when a disabled person is treated unfavourably because of something connected with the disability, e.g. a blind person being treated unfavourably because s/he uses an assistance dog, not because s/he is blind. This type of unfavourable treatment amounts to discrimination unless it is justifiable as being a proportionate means of achieving a legitimate aim. It is also only unlawful if the employer knows, or someone acting on his/her behalf knows, or could reasonably be expected to know, that the person has a disability.

Discrimination by Association –

This is directly discriminating against someone because s/he associates with a person who is disabled. An example would be where an employee is not considered for a promotion because s/he looks after a disabled relative and the employer assumes that s/he will not be able to give the required commitment to a new role.

Discrimination by Perception –

This would occur if someone is directly discriminated against because others think that s/he has a disability.

Victimisation –

This happens when a disabled, or non-disabled, person is treated less favourable because, for example, s/he has brought proceedings using his/her right under the Equality Act, or has supported someone else to do so.

Harassment –

Harassment is any form of unwanted and unwelcome behaviour that has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. This includes harassment based on association or perception, as well as third party harassment.

Any employee who believes that s/he has been discriminated against, or suffered harassment or victimisation, for a reason relating to disability, should refer to the **‘Grievance Procedure’ or the policy and guidance on ‘Dealing with Bullying and Harassment in the Workplace’, as appropriate.** These documents are available within the school, or from the Schools’ Personnel Service at the Civic Centre, Silver Street, Enfield, as appropriate.

4. RECRUITMENT

Both the law and good employment practices should mean that any recruitment and selection process is carried out according to the particular requirements of the job and seeks to appoint the best candidate on merit, in terms of individual ability. A 'level playing field' should be created to ensure that the most suitable person in terms of the job description and person specification is offered the post, prior to raising any other issues or receiving other information that could have the effect of pre-judging an individual, potentially in an adverse manner.

The Equality Act 2010 helps to create such a level playing field and limits the circumstances in which health-related questions can be asked prior to a job offer. **Up to this point, health-related questions can only be asked in order to enable the employer to:**

- Decide whether there is a need to make reasonable adjustments to enable an applicant to take part in the recruitment process;
- Monitor the diversity of applicants;
- Take positive action to assist disabled people;
- Decide whether an applicant can carry out a function that is essential ('intrinsic') to the job, for example, where a job includes a significant amount of manual handling;
- Establish that a person has a disability where this is an occupational requirement.

In these circumstances, it is important that there are no questions relating to an individual's sickness absence and attendance records are included on application forms or reference questionnaires as this information would then be available to a prospective employer prior to making a job offer.

It can be seen from the first bullet point above that **questions relating to disability and special requirements on application forms and in interview invitations ARE acceptable**. There is a need for the employer to request this information to enable any reasonable special arrangements to be made in order to ensure that all applicants can participate in the recruitment process, for example, the interview or an assessment test, without putting someone with a disability or health problem at an unnecessary disadvantage.

Other health-related questions should be asked during the recruitment process ONLY if relevant in terms of any of the above factors. For example, where a question relates to someone's ability that is intrinsic (absolutely fundamental) to the job and is phrased in such a way that would mean the employer would know if the applicant could carry out a function with a reasonable adjustment in place, then it is allowed.

In other words, there must be a genuine reason(s), directly related to the recruitment process or particular post, for asking health-related questions prior to a job offer.

In practice, there will be very few situations in which a question about a person's health or disability needs to be asked. Usually, questions should be asked about whether someone has the relevant skills, abilities, qualities

and/or knowledge to do the job, not about his/her health or any disability s/he may have. This should not normally be necessary

It should be noted that the application forms and model reference questionnaire produced by the Schools' Personnel Service (SPS) were amended to meet the requirements of the Equality Act referred to above when it came into force on 1st October 2010. These documents are available to Headteachers (and other appropriate staff for whom access was requested) for viewing and downloading from the SPS Fronter Room.

SPS advice is that a job offer should still be made on the condition that the prospective employee has a satisfactory medical assessment and this should, therefore, continue to be included in offer letters. The medical information received post-job offer will be used to assess whether the individual is likely to be able to carry out relevant functions that are intrinsic to the job, as well as whether it is possible to make any reasonable adjustments to accommodate a disability or health-related limitation. Individuals must not, however, be discriminated against as a result of receipt of this medical information. For these reasons, it remains important that the medical assessment is received before an individual starts work. **SPS will not, therefore, put newly appointed employees on the payroll prior to receipt of a satisfactory medical assessment.**

5. DURING EMPLOYMENT

(a) Induction and Training

On commencing employment, or starting work in a new role, the employer should consider, in consultation with a disabled employee, any reasonable adjustments that may be required to enable him or her to undertake the new duties and responsibilities effectively. Consideration should also be given to seeking further advice from the Occupational Health Service, where appropriate.

Depending upon the circumstances and/or the disability, a disabled employee may sometimes require additional training, or different forms of training, or the provision of special facilities or adjustments to enable him/her to participate. This may relate directly to training for the job itself or to general training provided for all employees in the form of meetings, briefings, seminars, workshops etc. It is important, therefore, that consideration of individual needs are not overlooked when planning and arranging meetings and training.

(b) Disability-Related Sickness and Absence

Employers face a greater legal obligation in the way they manage and accommodate disability-related sickness or absence than would apply generally when dealing with sickness absence. Good management in this respect should help ensure that an individual with a disability does not suffer discrimination.

The obligation on employers to make reasonable adjustments may arise in two respects in relation to disability-related sickness and absence:

- consideration may need to be given to adjustments to the job in order that the employee may return following a period of sickness absence. A Doctor or Occupational Health Service may advise of adjustments that will assist an individual's return to work or to full duties. The adjustments may be short or long term. If an employee is advised to remain at home while adjustments are made, the absence will be considered as special leave rather than illness.
- it may be a 'reasonable adjustment' to accept that a person with a disability will need some level of absence from work. For example, a specific type of reasonable adjustment would be allowing the person to be absent during working hours for rehabilitation, assessment or treatment. Care should be taken, as far as possible, to distinguish between general sickness and disability-related sickness. Disability-related sickness must be dealt with carefully to avoid unfavourable treatment. In these circumstances, absences related to disability will be identified separately from other sickness absence on individual records and 'trigger levels' will be applied as considered appropriate in the circumstances, taking account of this information. Accordingly, the employee may be allowed some degree of additional flexibility before further action is taken.

(c) Managing Performance

If a disabled employee is not performing well in his/her job, s/he may be disciplined or dismissed as a result. However, employers need to be aware that, under the Equality Act, a person will discriminate against a disabled person if s/he treats that person unfavourably due to something arising as a consequence of the disability and this treatment cannot be shown to be justified. (However, this does not apply if the alleged discriminator did not, and could not reasonably have been expected to know, that the person concerned was disabled).

If a disabled employee is dismissed due to his/her performance (which may or may not involve absence issues) and this arose as a consequence of his/her disability, the employer would need to show that the treatment was justified. The employer should ensure that, where appropriate, reasonable adjustments have first been identified and implemented that should have enabled him/her to perform adequately in the role. This would include looking at the possibility of a change of job or 'redeployment'.

Consideration should also be given to whether:

- the employee's condition is likely to improve and, if so, how long this will take;
- the employee's job can be covered if s/he is absent from work;
- changes to his/her duties and other workplace arrangements that would enhance performance and/or enable him/her to return to work/full duties.

Dismissal should only take place where it is deemed unlikely that the employee will be able to carry out his/her main duties to an acceptable standard for the foreseeable future and there are no (further) reasonable adjustments that can be made.

In relation to managing absence generally, it is recommended that reference is also made to the SPS guidance and procedure document 'The Management of Employee Absence' – 2nd Edition, March 2011.

Where disability-related sickness or absence or performance is, or may be an issue, Headteachers and/or managers are advised to seek further advice from the SPS, as appropriate.

Further advice on 'Making Reasonable Adjustments' is set out in 6. below.

6. MAKING 'REASONABLE ADJUSTMENTS'

Under the Equality Act, employers are required to make 'reasonable adjustments' to any provision, criterion or practice, or physical feature of the premises, if it places a job applicant or an employee at a substantial disadvantage compared to non-disabled people.

'Provision, criterion or practice' is not defined but should be considered widely so it includes, for example, formal or informal policies, rules, customs and practices, particular arrangements or qualifications, including one-off decisions or actions.

'Physical feature' may include, steps, stairways, kerbs, paving, parking areas, entrances and exits, internal and external doors, gates, toilets, washing facilities, lighting and ventilation, lifts and escalators, flooring, signs, furniture, temporary and/or movable items.

'Substantial' means not minor or trivial.

Employers are also required to take reasonable steps to provide an auxiliary aid or service (something which provides additional support or assistance). For example, this could include the provision of information in an accessible format or an adapted keyboard, to avoid the disabled person being at a substantial disadvantage.

Many impairments and health conditions do not limit a person's ability to perform a particular role. Employers are obliged to recognise that, provided they make appropriate adjustments to working conditions or the environment, many difficulties can be overcome.

An employer is only expected to make reasonable adjustments if s/he knows, or can reasonably be expected to know, that a person is disabled. In order to consider or make reasonable adjustments to allow a disabled person to do the job, s/he will need to provide sufficient information about his/her condition or impairment and/or any particular needs to the employer. However, disabled people have a right to confidentiality and employers must not disclose confidential details about them without their explicit consent. The Data Protection Act 1998 places duties on employers to ensure confidentiality and appropriate handling of 'sensitive personal data', which includes data about a person's health.

Sometimes, a reasonable adjustment may involve the co-operation of others, such as colleagues. If a disabled employee does not wish information about him or herself to be disclosed it may be too difficult to make the adjustment. In these circumstances, it should be explained to the disabled employee that it will not be possible to make the adjustment without sharing at least some information. It need not be detailed information about his/her condition, just enough for others to be aware of why something different is taking place, a particular adaptation is being made or why their co-operation is required.

If an adjustment will not work without the co-operation of others, it is unlikely to be a valid defence under equality law for a claim of failure to make reasonable adjustments that an adjustment was not reasonable because other staff were unhelpful or obstructive. The employer would at least need to show that reasonable steps had been taken to resolve the issue relating to the attitude of others.

To ensure that disabled people have equal opportunities to apply for and remain in work, reasonable adjustments will need to be considered in relation to the following areas:

- The job application and interview process;
- Induction and training;
- Staff benefits;
- Premises;
- Work patterns and rest breaks.

Many adjustments that can be made are not particularly expensive and employers are not required to do more than what is reasonable. What is reasonable will depend upon, among other factors, the size and nature of the organisation. However, if an employer does nothing and a disabled person can show that there were barriers that could have been identified and reasonable adjustments made, s/he may be able to successfully challenge the employer at an Employment Tribunal. This may result in the employer having to pay compensation as well as making the reasonable adjustment(s).

The nature of a reasonable adjustment, or adjustments, will obviously depend upon the specific circumstances but may include one or more of the following (the list is not exhaustive):

- Making adjustments to premises, e.g. lowering door handles or widening doorways;

- Allocating some of the disabled person's duties to another member of staff, or switching duties around;
- Transferring the disabled person to an alternative position;
- Assigning the disabled person to a different place of work;
- Allowing absence during working hours for rehabilitation or treatment;
- Providing or arranging training or mentoring;
- Acquiring new or modified equipment;
- Providing information in accessible formats;
- Modifying instructions or reference manuals;
- Modifying procedures for testing or assessment;
- Providing a reader or interpreter;
- Providing supervision or support;
- Permitting flexible working;
- Considering a support worker to assist where this would minimise the impact of the disability on the employee's ability to carry out their role;
- Modifying disciplinary or grievance procedures.

There are also a number of factors to take into account when deciding what may be a reasonable adjustment in the circumstances. Consideration should be given to the following:

- The nature of the job applicant, or employee's, disability;
- The impact of his/her ability to carry out the duties of the job;
- Whether professional advice has been sought in relation to reasonable adjustments;
- Whether medical advice has been sought;
- Whether any professional or medical advice received has suggested adjustments;
- Whether taking any particular steps would be effective in preventing or reducing the substantial disadvantage;
- The practicality of the step;
- Financial and other costs of making the adjustment and the disruption caused;
- The availability of financial or other assistance (see 7. below – 'Support Organisations');
- The effect on other employees;
- Any adjustments made for other employees;
- The extent to which the disabled employee will co-operate with any adjustments;
- Any health and safety risks – for the disabled employee, other employees and others such as pupils or visitors.

It is always advisable to discuss any possible adjustments with the disabled person, otherwise any changes may not be effective.

It is clear from the above that there are no 'hard and fast' rules about making adjustments. Ultimately, the test of 'reasonableness' will often be a subjective one.

For further information, a **Case Study 'Teacher with Lower Back Pain – Making Reasonable Adjustments'** is attached as **Appendix 1**. (Obtained from the Health and Safety Executive website).

7. SUPPORT ORGANISATIONS

There are a number of organisations that can offer practical help and support to disabled employees and their employers to enable them to overcome work-related issues arising from disability. 'Access to Work' (ATW) and 'Remploy' are two such organisations.

Help and support can be tailored flexibly to suit the needs of an individual in a particular job and may include financial assistance towards additional costs incurred to support a disabled person into work or to remain in employment.

As well as ATW and Remploy, there are other organisations which can provide support and advice on disability-related issues. **Further information about ATW, Remploy and other Specific Support Organisations are attached as Appendix 2 to this document.**

8. PUBLIC SECTOR EQUALITY DUTY

Under the Equality Act 2010 there is a public sector Equality Duty. The Equality Duty contains general and specific duties and builds on previously existing equality duties for race, disability and gender by creating a single duty for 'protected characteristics', including disability.

The general duty places a pro-active legal requirement on public bodies to have regard, in the exercise of their functions, to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is unlawful under the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The general duty is underpinned by specific duties, designed to support the functioning of the general duty. The specific duties are set out in the Equality Act (Statutory Duties) Regulations 2011.

The Regulations require public bodies to publish sufficient information to show that they have complied with the general duty, and these include a requirement to publish workforce data.

Publication of this information will serve to highlight any particular issues and help to promote and encourage equal opportunity for all, including those with a disability.

Further information on the Equality Duty is on the [Government Equalities Office website](#) and the [EHRC website](#).

9. POLICY FOR DEALING WITH DISABILITY IN RECRUITMENT AND EMPLOYMENT

The employer will:

- Actively encourage and promote equal opportunities for all, including the disabled, at all times;
- Treat any acts of unlawful discrimination, harassment or victimisation against disabled applicants, employees, pupils, parents, governors or others very seriously. Any such act may constitute gross misconduct and could lead to dismissal without notice;
- Raise awareness amongst staff of disability issues and the principles of dealing with disability in recruitment and employment;
- Ensure that applicants for jobs and employees with a disability are treated equally and receive full and fair consideration for all types of vacancies, including promotions, as well as training and development opportunities and other benefits or provisions such as special leave arrangements, flexible working requests etc;
- Ensure that the requirements of the Equality Act 2010 are met in relation to recruitment by:
 - asking all applicants if they have any particular requirements to enable them to participate in the recruitment process and, where appropriate, consider making reasonable adjustments;
 - otherwise only asking health-related questions prior to making a job offer in the limited, specified circumstances permitted by the Act;
 - giving full consideration to any health or disability-related issues that arise after a job offer is made and making any reasonable adjustments, as appropriate;
 - reject a prospective employee for a reason relating to disability only where this is objectively justified after due consideration of reasonable adjustments;
- Wherever possible, retain the services of an employee who is, or becomes, disabled by seeking appropriate advice and considering reasonable adjustments. This may include adjustments to the job, working conditions or other arrangements, or giving consideration to an alternative role if available;
- Ensure that disability-related sickness and absence can be identified separately on absence records and that any absence or performance issues relating to a disability are addressed accordingly, taking into account the individual's particular circumstances;
- Ensure that the service of a disabled employee is terminated only as a last resort, through the appropriate procedures, when all other alternatives and reasonable adjustments have been fully considered;
- In accordance with any statutory or other requirements, and/or the public sector Equality Duty, monitor the composition of the workforce to ensure that any equality issues can be highlighted and addressed;
- Keep policies and procedures under review to ensure that they meet statutory requirements and principles of good employment practice in all areas, including in relation to the recruitment and employment of disabled people.

CASE STUDY

Teacher with lower back pain – making reasonable adjustments

Key points

- Teacher develops lower back pain.
- Concerns about carrying teaching equipment around the classroom and sitting down for long periods doing marking.

Allan has taught science at a secondary school for the past 10 years. Recently, he has developed lower back pain, which is made worse if he has to move or lift heavy objects and sit down for long periods. He has also noticed that his symptoms are much worse in term time.

Allan has to use and move equipment for his job, and has to do a lot of marking and lesson preparation, which cannot be done by another teacher. He is worried that the school may think he cannot carry on his teaching role and that he will have to leave a job he loves.

All members of staff are given a laptop computer to do their lesson preparation at home. Many of the science lessons are delivered using an interactive whiteboard.

What are the issues?

Lower back problems are the most common health conditions amongst the working population, but back pain is still not well understood by many employers. Chronic back pain can be a disability protected under the Disability Discrimination Act, if it affects their normal day-to-day activities. The Act generally defines disability not in terms of someone's ability to function at work, or in terms of specific clinical conditions, but in the effect it has on daily activities, such as climbing stairs, listening to the radio, taking a shower, social interaction or going to the shops.

Alan is clearly worried about how his condition will affect his career – and this anxiety could make his condition worse. He fears that the back pain might actually be caused by his work.

The school must assess the situation, consider what its legal obligations are as well as see what it can do to ensure that Allan's condition does not get worse, which could risk him being unable to work at all.

What is the right approach?

Allan works for a good employer, his school prides itself on how well it supports its staff in their teaching roles, and this includes disabled staff. When Allan speaks to the head teacher, she says that she is aware that back pain can be a serious issue and

that the school will do what it can to help. She says that, in practice, she does not mind whether or not Allan would be covered by the Disability Discrimination Act, because she values him as a staff member and wants to keep him in his job. She suggests that they first seek advice from the local authority occupational health department.

Allan is referred to an occupational health practitioner who advises that he should not carry or move heavy items but that he should try to remain as active as possible. Remaining seated for prolonged periods is likely to exacerbate the condition. The practitioner gives Allan a booklet called *The Back Book**, which contains some general advice on coping with his condition and says that she will refer him for a short course of physiotherapy to help him with appropriate exercises and in coping with his condition. The practitioner will also write to Allan's GP outlining his advice.

The practitioner sends a report to the school head teacher, after discussing the contents of the report with Allan. She recommends that the school's health and safety officer assesses ways to reduce the manual handling component of the job and advises that Allan should not be required to remain seated for long periods at work. She advises that the school also considers ways to minimise any ergonomic risks associated with using a laptop. Allan currently has to look down at a small screen while typing – the associated posture is not helping, she says. The practitioner is unable to say whether Allan's work is the cause of his back pain – but agrees that, in the least, it is likely to be making it worst.

* *The Back Book* is available from The Stationery Office, www.tsoshop.co.uk 

The head arranges for the school's health and safety officer to meet with Allan and to look at his job and ways to reduce manual handling and other ergonomic risks. The officer produces an initial report and a meeting is arranged for the head teacher, the health and safety officer, the trade union safety representative and Allan to discuss the way forward. They agree a number of actions:

- If any equipment needs moving around at the start of the science lesson, the laboratory assistant will do this. The health and safety officer will make sure that the assistant's manual handling training is up to date.
- The head teacher suggests that they may be able to move some of Allan's classes so that the room is already set up for him to teach; she will investigate the current room allocations and timetables and make the necessary changes as soon as practicable.
- It is agreed that Allan will be provided with a new chair for his main classroom. The safety officer will arrange for Allan to try out a number of possible chairs so that one can be chosen that provides the right ergonomic support and comfort. He will be shown how to adjust it to the right height, tilt and armrest level. The school will also purchase a desktop PC for Alan to use at home where most of the lesson preparation takes place. Use of the laptop will be confined to when Allan uses the interactive whiteboard during lessons.

It will also provide him with a suitable adjustable chair and desk that he can use at home.

- The head of the science department will be asked to ascertain if it would be possible to share more teaching resources between the science teachers, to reduce the amount of computer-based preparation Allan needs to do.
- Allan agrees that he will try to remain as active as possible, and following the advice of the practitioner will try to deliver as much of the lesson as possible while standing up.
- The head teacher says that they will review the situation regularly to ensure that things are going well.

The school has taken a responsible approach to Allan's back condition and has started to put in place measures to support him at work and help prevent the situation worsening. Allan may well be covered by the Disability Discrimination Act, but as the head teacher points out they want to do what they can regardless of any legal obligations under the Act. It should be noted, however, that the employer does have obligations to Allan under health and safety laws, including the Management of Health and Safety at Work Regulations, the Manual Handling Operations Regulations and the Health and Safety (Display Screen Equipment) Regulations. Purchasing appropriate equipment, such as ergonomic seating and, in this case a desktop PC rather than a laptop, along with training in how to use the equipment safely, would be appropriate responses to the risk-assessment process. The costs of fulfilling these duties are, in any case, small compared with the potential huge costs associated with losing an experienced teacher. Allan has agreed to do what he can to ensure that his condition does not get worse, taking on the advice of the occupational practitioner to remain active, avoid prolonged seating and go for physiotherapy.

The solutions to this case study are practical and have involved appropriate expert advice. The head teacher and Allan have been fully involved in finding a way forward, working with the health and safety officer and safety representative and seeking expert advice from the occupational practitioner. Although there are legal obligations to be addressed, the primary aim was to ensure that Allan can continue to function at work without exacerbating his back condition.

Note – The above case study was published by the Health and Safety Executive and licensed under the Open Government Licence v 1.0.

Access to Work – Information & Guidance

The Access to Work Scheme

Access to Work is a Government scheme designed to provide help to disabled people who have a job to start or are experiencing disability related challenges within work and need support to overcome them.

The scheme may assist an employer to decide what reasonable adjustment steps to take. Where financial assistance is available from the scheme, it helps the employer to make reasonable adjustments which would otherwise be unreasonably expensive. However, Access to Work does not diminish any of an employer's duties under the Equality Act 2010. In particular:

- The legal responsibility for making a reasonable adjustment remains with the employer – even where Access to Work is involved in the provision of advice or funding in relation to the adjustment.
- It is likely to be a reasonable step for the employer to help a disabled person in making an application for assistance from Access to Work and to provide on-going administrative support (by completing claim forms, for example).
- It may be unreasonable for an employer to decide not to make an adjustment based on its cost before finding out whether financial assistance for the adjustment is available from Access to Work or another source.

Who can get Access to Work

You may be able to get Access to Work if you are:

- in a paid job
- unemployed and about to start a job
- unemployed and about to start a Work Trial
- self-employed

and your disability or health condition stops you from being able to do parts of your job.

Your disability or health condition may not have a big effect on what you do each day, but may have a long-term effect on how well you can do your job.

Access to Work can help you if your health or disability affects the way you do your job. It gives you and your employer advice and support with extra costs which may arise because of your needs.

Financial Assistance

Access to Work might pay towards the cost of a support worker or the equipment needed at work. It can also pay towards the cost of getting to and from work if public transport is not feasible.

If a communicator (signer) at job interviews is needed, then Access to Work may be able to pay some or all of the costs for hiring the communicator.

How to contact Access to Work

If you are affected by a disability, or health condition that is likely to last for 12 months or more, which may impact on your ability to undertake a job role you may contact the regional Access to Work contact centre to check whether any help is available. The manager may support the employee in this process if necessary.

Alternatively, ask the Disability Employment Adviser (DEA) at your local Jobcentre about Access to Work.

Getting help – the process

If you are likely to be eligible for Access to Work, you will be sent an application form to complete and return. The manager may support the employee in this process if necessary.

When the completed form has arrived back, an Access to Work adviser will contact you. The adviser will usually speak to you and your employer to reach a decision about the best support for you. In most cases, this can be done over the telephone, but a visit can be arranged if necessary.

Sometimes specialist advice may be needed, which the Access to Work adviser will help to arrange. For example, your adviser may arrange for a specialist organisation to complete an assessment and recommend appropriate support.

In this case, a confidential written report will be sent to the Access to Work adviser, who will use this information to help them decide on the right level of support.

Employer's responsibilities

Once your adviser has decided on the package of support they feel is appropriate, they will seek formal approval of their recommendations from Jobcentre Plus. You and your employer will then receive a letter informing you of the approved level of support and the grant available.

It is the responsibility of your employer to arrange the agreed support and buy the necessary equipment. Your employer can then claim repayment of the approved costs from Access to Work.

Your Access to Work grant

The amount of help which you may receive from Access to Work will vary depending on how long you have been employed and what support you need. Access to Work can pay up to 100 per cent of the approved costs if you are:

- unemployed and starting a new job
- self-employed
- working for an employer and have been in the job for less than six weeks

Whatever your employment status, Access to Work will also pay up to 100 per cent of the approved costs of help with:

- support workers
- fares to work
- communicator support at interview

Access to Work pays a proportion of the costs of support if all of the following apply to you:

- you're working for an employer
- you've been in the job for six weeks or more
- you need special equipment

The precise level of cost sharing is determined as follows:

- employers with 1 to 9 employees will not be expected to share costs
- employers with 10 to 49 employees will pay the first £300 and 20 per cent of costs up to £10,000
- employers with 50 to 249 employees will pay the first £500 and 20 per cent of costs up to £10,000
- large employers with 250 or more employees will pay the first £1,000 and 20 per cent of costs up to £10,000

After between one and three years, Access to Work will review your circumstances and the support you're receiving.

Access to Work will not pay for items or modifications that are considered part of the normal responsibilities of the employer to implement Health and Safety regulations

Please click on the link below for Access To Work information, application forms and further advice:

http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/WorkSchemesAndProgrammes/DG_4000347

Remploy Services

Remploy provides a comprehensive range of employment services to support disabled people and those experiencing complex barriers to work into gaining and retaining sustainable employment.

In addition to their Recruitment services, they have a growing **Learning** business which helps disabled people to develop transferable skills before entering the job market.

Remploy's **Vocational Rehabilitation Services** offer vocational rehabilitation and absence management solutions for: **insurers**, **solicitors**, **employers**, rehabilitation providers, the **life and pensions market** and **occupational health** providers.

Remploy have an expanding UK network of town and city centre branches through which they deliver tailored services. The **branches** are bright and welcoming and provide a professional and supportive environment for every individual that they work with. By 2010, Remploy plan to have a network of 45 branches throughout the UK.

Remploy have committed to supporting 20,000 people per year into mainstream employment by 2012/13 and are on track to achieve this. In 2007/8 Remploy found 6,500 jobs for disabled people and those facing complex barriers to work - an increase of 27% on the previous year.

www.rempoy.co.uk

Specific Support Organisations

There are a wide range of voluntary organisations representing disabled people and providing advice in connection with particular disabilities. The **Office for Disability Issues** website provides a useful starting point.

odi.dwp.gov.uk

Mencap is the leading UK charity for people with a learning disability and their families. www.mencap.org.uk

Mind is a leading mental health charity that campaigns for a better life for everyone experiencing mental distress. Mind can provide training in mental health awareness. www.mind.org.uk

The Royal National Institute of Blind People (RNIB) is the largest charity representing blind and partially sighted people in the UK, and can provide information about meeting their needs as customers, including the provision of accessible information. www.rnib.org.uk, Helpline 0303 123 9999

The Royal National Institute for Deaf People is the largest charity representing deaf and hard of hearing people in the UK, and can provide information about meeting their needs as customers. www.rnid.org.uk, Information Line 0808 808 0123 (freephone)

Work Choice helps people with disabilities whose needs cannot be met through other work programmes, Access to Work or workplace adjustments. This might be because they need more specialised support to find employment or keep a job once they have started work. For further information please visit www.direct.gov.uk, information about Work Choice can be found under Work Schemes and Programmes.

Seetec works closely with thousands of jobseekers, employers and partner providers every year to support unemployed and economically inactive individuals into work. Seetec delivers a variety of Government funded programmes. These include those aimed at the long term unemployed, such as the New Deal programmes, to those designed for people with disabilities and health conditions such as Pathways to Work and New Deal for Disabled People. Seetec is also one of the largest suppliers of DWP programmes funded by the European Social Fund, offering employability support to disadvantaged jobseekers from all walks of life, helping them to address and overcome those barriers which prevent them from entering sustainable employment.

www.seetec.co.uk

NB. The above contacts and/or websites may be subject to change over time.