

Factsheet 3: The Equality Act 2010 and the responsibility on employers

The Equality Act 2010 legally protects people from being discriminated both at work and in wider society.

The Act was introduced to make the law easier to understand and to strengthened the protection people receive from it. It outlines what treatment of people is unlawful.

Who is protected under the Act?

There are a number of protected characteristics under the Equality Act, including disability.

A person is considered to be disabled under the Equality Act if they have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on their ability to do normal daily activities.

- 'Substantial' means that it is more than minor or trivial; for example, it takes much longer than it usually would to complete a daily task like getting dressed.
- Long-term means that your condition or disability has had an adverse impact on someone's life that
 - has lasted for more than 12 months OR
 - is likely to last for more than 12 months OR
 - is likely to last for the rest of their life, if they are expected to live for less than 12 months

There are some people who automatically meet the disability definition under the Act. People with HIV, cancer and multiple sclerosis fall into this category.

The Equality Act and reasonable adjustments

The Equality Act 2010 requires employers to make reasonable adjustments that will remove barriers to disabled people seeking to find and keep a job. Employers are required to take reasonable steps to avoid disadvantaging a disabled person compared to a non-disabled person.. The duty applies during recruitment and all stages of employment, including dismissal. You can find more information about reasonable adjustments in **Factsheet 4: Practical steps** (insert link)

An employer must make adjustments that are considered to be 'reasonable' to ensure its workplace or practices do not disadvantage a disabled job applicant or employee already with the organisation. Not doing so is likely to be considered disability discrimination under the Equality Act.

Employers should therefore always make sure that they have processes in place to ensure that reasonable adjustments are available to applicants and employees in the context of:

- recruitment and selection
- determining pay, terms and conditions
- sickness absence
- training and development
- promotion
- dismissal
- redundancy

The question of what is 'reasonable' will depend on circumstances. Because the law requires employers to make reasonable adjustments for colleagues who are disabled, more favourable or different treatment afforded to a disabled colleague is not considered discrimination against others who are not disabled. However, the adjustments should be manageable from both a financial and practical perspective.

The Equality Act and positive action

In order to be able to achieve greater diversity in the workforce, the Equality Act 2010 allows employers, when faced with two or more candidates of equal merit, to select a candidate from a particular group that faces a disadvantage or is under-represented in its workforce over a candidate who is not from that group. Positive action is exercised at the employer's discretion.

Further guidance

There are a number of useful guidance documents to support employers:

[A quick start guide to using positive action in recruitment and promotion](#)

[Code of Practice for employers](#)