

## **BRIEFING NOTE 3 – DIFFERENT TYPES OF DISABILITY DISCRIMINATION**

### **1.0 Legal Duty**

1.1 Under the Equality Act 2010 the University has a legal duty to make reasonable adjustments to ensure that a member of staff or potential member of staff is not disadvantaged by a provision, criterion or practice, or by a physical feature of an employer's premises, or by the non-provision of an auxiliary aid.

### **2.0 Different Types of Disability Discrimination**

2.1 Detailed below are explanations and examples of the six main types of disability discrimination sourced from the Equality & Human Rights Commission<sup>1</sup>.

#### **2.1 Direct discrimination**

This happens when someone treats you worse than another person in a similar situation because of your disability.

- For example, during an interview, a job applicant tells the potential employer that he has multiple sclerosis. The employer decides not to appoint him even though he's the best candidate they have interviewed, because they assume he will need a lot of time off sick.

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<sup>1</sup> Source: the Equality & Human Rights Commission advice and guidance on disability discrimination <https://www.equalityhumanrights.com/en/advice-and-guidance/disability-discrimination#h3>

## 2.2 Indirect discrimination

Indirect discrimination happens when an organisation has a particular policy or way of working that has a worse impact on people who share your disability compared to people who don't.

- For example, an employer requires all job applicants to use an online recruitment portal. The portal is not accessible for people with visual impairments and you cannot use screen reading software with it. Unless the employer offered alternative ways for job applicants to apply, this would be indirect discrimination.

Indirect disability discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the policy. This is known as [objective justification](#).

## 2.3 Failure to make reasonable adjustments

Under the Act employers and organisations have a responsibility to make sure that disabled people can access jobs, education and services as easily as non-disabled people. This is known as the 'duty to make reasonable adjustments'.

Disabled people can experience discrimination if the employer or organisation doesn't make a reasonable adjustment. This is known as a 'failure to make reasonable adjustments'.

- For example, an employee with a mobility impairment needs a parking space close to the office. However, her employer only gives parking spaces to senior managers and refuses to give her a designated parking space.

What is reasonable depends on a number of factors, including how big the organisation making the adjustment is. If an organisation already has a

number of parking spaces it would be reasonable for them to designate one close to the entrance for the employee.

## **2.4 Discrimination arising from disability**

The Act also protects people from discrimination arising from disability. This protects you from being treated badly because of something connected to your disability, such as having an assistance dog or needing time off for medical appointments. This does not apply unless the person who discriminated against knew you had a disability or ought to have known.

- For example, a private nursery refuses to give a place to a little boy because he is not toilet trained. His parents have told them that he isn't toilet trained because he has Hirschsprung's Disease, but they still refuse to give him a place. This is discrimination arising from the little boy's disability.
- For example, in the workplace if an employer automatically excludes any employee with a high level of sickness absence from receiving a bonus.

But if the organisation or employer can show that there is a good reason for the way they treat you, then it will not be discrimination arising from disability.

- For example, an airline pilot whose eyesight has deteriorated is no longer allowed to fly planes. This is known as objective justification.

## **2.5 Harassment**

Harassment occurs when someone treats you in a way that makes you feel humiliated, offended or degraded.

- For example, a disabled woman is regularly sworn at and called names by colleagues at work because of her disability.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser.

## **2.6 Victimisation**

This is when you are treated badly because you have made a complaint of disability related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of disability related discrimination.

- For example, an employee has made a complaint of disability discrimination. The employer threatens to sack them unless they withdraw the complaint.

## **3.0 The rights of carers in the workplace**

3.1 Employees who have caring responsibilities for someone with a disability are protected under the equality Act 2010 against direct discrimination and harassment because of their caring responsibilities.

3.2 Employees have the right to request flexible working and can requests can be made in accordance with the [Flexible Working Guidelines](#).

3.3 The [guidelines on Parental Leave](#) explain the rights of employees who are parents to take specified amounts of unpaid Parental Leave.

3.4 The [Time Off Work: Employee Rights and Management Guidelines](#) explains the reasonable amounts of (paid and unpaid) time off available for employees to deal with a range of incidents or circumstances relating to their dependants.

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