

A COMPREHENSIVE APPROACH TO DISABILITY DISCRIMINATION

Introduction

The Disability Discrimination Act 1995 is about to celebrate its 10th birthday. This Act was relatively unnoticed by employers and occupational health professionals alike following its initial trumpeted introduction; however, in the last 5 years interest in the Act and its application to the workplace has gathered pace, to the extent that now it is a very important part of our practice and many employers are facing a significant number of claims from employees citing disability discrimination.

You will have received from Preventative Healthcare over the last three years, if you are a regular client, a number of legal briefings providing you with details of cases relating to the Disability Discrimination Act 1995, and important pieces of case law that have developed from these cases.

It is important that your organisation addresses the Act comprehensively, and has in place a workable and detailed policy to address the issues of disability and chronic ill health that may be experienced by your employees.

Having such a policy in place and making it available to employees means that when issues arise with regards to employee ill health and disability these can be addressed in a fair and equitable manner, and they can be addressed efficiently and quickly, which has both advantages for the employer, for management, for the employees and for their colleagues. It also avoids unnecessary expense and time taken in complex meetings attempting to address accusations of victimisation if your organisation has a published policy that can be accessed by all employees.

Here are a series of questions that you might like to ask yourself on behalf of your organisation to see if you have comprehensively addressed the issue of disability discrimination and the particular requirements of the Disability Discrimination Act 1995:-

1. Does your organisation have a policy statement on the subject of disabled staff or staff who are facing prolonged disability due to ill health? Such a statement may be included in your organisation's Equal Opportunities Policy.
2. Does your organisation have a policy specifically relating to the issues raised in the Disability Discrimination Act 1995? Such a policy must show the commitment of senior management within your organisation to addressing issues of equal opportunities for employees facing long-term disability or long-term health issues.
3. Is your policy statement and your policy relating to disability discrimination well publicised? How is it publicised? Are staff aware that your organisation has such a policy? Are they aware of how they can access the services provided in such a policy? Are staff aware of the contents of your policy on disability discrimination?

4. Do you have a programme that regularly reviews your policy statement and your policy on disability discrimination? Who owns your policy and policy statement on disability discrimination – Is it your Health and Safety Department, your senior management team, your Human Resources Department or Personnel Department or your occupational health staff?
5. Does your organisation have a culture of encouraging employees to declare their disabilities or ill health issues in a confidential manner, knowing that they will be addressed sympathetically and appropriately?
6. Do you have an ongoing programme designed to provide information to your employees and their managers with regards to the changing requirements of disability discrimination legislation in the light of case law developments? Such a programme should outline the responsibilities of certain individuals within your disability policy.
7. Does your organisation provide information with regards to the structure of your organisation's premises, the availability of facilities such as toilet facilities, entrance facilities, parking facilities, lifts and rests facilities? Have you undertaken an audit to assess the ease of mobility within your organisation's buildings for disabled staff and the facilities available for employees, clients and visitors to your premises who are not fully fit or able-bodied?
8. Do your recruitment procedures offer equal opportunities to disabled individuals? Do you have facilities or competent individuals within your organisation who are able to address the appropriate risk assessments under the Disability Discrimination Act and advise on reasonable adjustments to your working environment? Does your organisation's appraisal system support disabled staff? For staff that already have a disability or have developed chronic ill health issues do you have the support of an occupational health service or other services that will provide rehabilitation and a phased planned return to the workplace, maintaining the health, safety and welfare of all employees?
9. Do you involve disabled staff specifically in employee representation groups, for example groups developing policies and procedures, health and safety committees, training committees or staff recreation committees? Does your organisation have a budget for reasonable adjustments under the Disability Discrimination Act, education and policy development with regards to disability issues?

If you are able to address the issues raised in these questions, your organisation will be well placed to manage disability and chronic ill health in a fair and comprehensive manner. It is important to create a culture within your organisation that is positive with regards to addressing disability and ill health issues, to have an open and confidential system of assessment and management.

Preventative Healthcare is able to provide a variety of services supporting its clients in the difficult and complex areas of chronic ill health and disability, particularly with regards to advising on reasonable adjustments and phased returns to the workplace as part of a rehabilitation programme. If we can help in any way please do not hesitate to contact Jane Puncher or John Mason.

Mrs Jane Puncher ☎ **01622-775285** ✉ **j.puncher@phcohealth.co.uk**

