



Applying Reasonable Adjustments

Managers' Guide

HR Policy & Advice
April 2019

DATA LABEL: OFFICIAL

APPLYING REASONABLE ADJUSTMENTS

MANAGERS' GUIDE

1. LEGISLATIVE PROVISION

The Equality Act 2010 places a duty on an employer to consider reasonable adjustments where a 'provision, criterion or practice' (PCP) puts a disabled employee at a substantial disadvantage compared to employees who are not disabled.

A "PCP" is a requirement imposed on the employee by the council which arises from a council policy, or is part of the job the employee is employed to do for the council. It is something that is a part of the way the council does things, and requires employees to do things, when at work. It is clear from case law that the requirements of a policy for managing attendance may amount to a PCP.

A "substantial disadvantage" is a disadvantage which is more than minor or trivial when the employee is compared to an employee without a disability.

The employer is required to make such adjustments as are reasonable to avoid that disadvantage. However what is 'reasonable' will depend on all the circumstances of the case, including the:

- nature, extent and expected duration of the disability
- effectiveness of the adjustment in removing or reducing the disadvantage
- extent of any disruption to the employer's business.
- cost of the adjustment in light of the employer's financial and other resources.

In deciding on the 'reasonableness' of any proposed adjustment, managers will be advised by Human Resources and the council's Occupational Health Service. The final decision rests with the relevant manager.

2. COUNCIL POLICY

Paragraphs 6.1 and 6.2 of the council's [Policy and Procedure for Supporting Attendance at Work](#) provides;

'The purpose of referral is to obtain a medical opinion to assist managers to determine the most appropriate action taking into account the interests of the service and the employee. By establishing whether or not an employee's absence pattern may be caused by an underlying medical condition, a manager is better able to determine how the absence should be managed and the timescales for doing so. Referral also enables the manager to seek an opinion from the Occupational Health Adviser as to whether the Equality Act applies and if so, whether there is a need to consider making reasonable adjustments.

In line with best practice, a referral to the council's Occupational Health Adviser may be arranged for an employee who notifies his/her manager that they have been diagnosed with a health condition or disability that could make that person prone to periods of future sickness absence. This decision may be taken following discussions with occupational health'.

DATA LABEL: OFFICIAL

Practical examples of adjustments that could be considered are set out in Section 4 of this Guidance Note. The list of adjustments and conditions is not exhaustive – other conditions may constitute a disability and other adjustments may be appropriate in the particular circumstances of an individual case.

Whichever form an adjustment takes, it is only a reasonable adjustment if there is a real prospect of it removing the substantial disadvantage and facilitating an employee's return to work, and/or improved and sustained attendance.

3. APPLICATION OF REASONABLE ADJUSTMENTS

The duty to consider reasonable adjustments does not mean that the council must ignore all disability-related absences when applying its [Policy and Procedure for Supporting Attendance at Work](#). However the expectation is that a degree of adjustment will be considered in appropriate circumstances, particularly but not only where recommended by the council's Occupational Health Advisers as likely to lead to improved and sustained attendance at work within a reasonable period of time.

As sickness absence is managed on a case by case basis, any decision to apply an adjustment will depend on the circumstances of each employee's absence and the underlying medical condition concerned. 'Sustainability' will also be a key consideration in determining the extent to which an adjustment can be deemed reasonable in any given set of circumstances.

Whilst there is no definitive definition of unsustainable absence, it is generally recognised that absence becomes unsustainable when it becomes disruptive to service delivery. That period of time will depend on a number of factors including the type of service and the extent to which the absence impacts on the customer and fellow employees. Sustainability becomes an issue when absence from the workplace is continuous over a prolonged period, follows an intermittent pattern or is a combination of both.

The challenge for a service is to balance sustainability of the absence (s) and the need to meet its obligations under the Equality Act in terms of reasonableness. With regard to the former, it may not be possible to sustain an adjustment on an open-ended basis and for example, an intervention such a relaxation of trigger levels will not automatically be repeated at every stage of the process after it is put into place at one stage.

Where an adjustment to triggers is made, the reason for the adjustment will be kept under review which may result in the level or frequency of the adjustment being increased or decreased depending on the prevailing circumstances.

Occupational Health Process

As part of the medical referral process, Services will ask the council's Occupational Health Adviser the following questions,

- Would the medical condition be likely to be classified as a disability under the Equality Act?
- Are there any adjustments that the employer could make to support the employee's attendance at work or help to facilitate a return to work?
- What form of adjustment is recommended?

DATA LABEL: OFFICIAL

- In what way will the adjustment facilitate a return to work and/or assist in maintaining the employee's attendance at work and over what period should the adjustment be applied?

The Service itself should also take a proactive approach by considering and determining what adjustments may be possible and what is reasonable.

Employee Consultation

In identifying what might constitute an appropriate reasonable adjustment, direct consultation with the employee concerned should always be part of the process as the employee will be able to advise of the limitations he /she is faced with as a consequence of their disability/health condition, and may be able to make suggestions which have not been made by Occupational Health and which have not been thought of by the Service.

Where a service is unable to accommodate a suggested adjustment or is unable to do so in its entirety, the employee will be advised in writing of the reasons for that decision. For record purposes, a note of the reasons for the service's decision will be retained by Human Resources (Sickness Absence Team).

4. EXAMPLES OF ADJUSTMENTS

- **Making Adjustments to Premises**

Example: The council makes structural or other physical changes such as widening a doorway, providing a ramp or moving furniture for a wheelchair user.

- **Providing Information in Accessible Formats**

Example: The format of instructions and manuals might need to be modified for some disabled workers (for example, produced in Braille or on audio tape) and instructions for people with learning and specific learning difficulties might need to be conveyed orally with individual demonstration or in Easy Read. The council may also need to arrange for recruitment materials to be provided in alternative formats.

- **Allocating Some Duties to Another Worker**

Example: Specific elements of work are allocated to another worker as a disabled worker has difficulty doing them because of his disability. For example, the job involves occasionally going onto the open roof of a building but this element of the work is removed from a worker whose disability involves severe vertigo.

- **Redeployment/Alternative Employment**

Example: The council should consider whether a suitable alternative post is available for a worker who becomes disabled (or whose disability worsens), where no reasonable adjustment would enable the worker to continue doing the current job.

The council's [Recruitment and Selection Procedure](#) stipulates that applicants with a disability who meet the essential criteria for a post will be offered a guaranteed interview.

The policy further states;

‘that the council will, wherever practicable, try to retain employees who become unable to do their own job due to ill-health or disability. The first consideration will be to see if reasonable adjustments can be made to the employee’s own job to allow them to remain in it. If this is not possible, the employee will be considered for other posts. It is accepted that retraining and/or reasonable adjustments may be required’

Consideration will be given to vacancies at a similar grade or a maximum of two grades below their current post but may exceptionally extend to posts at a higher grade where it is judged to be a reasonable adjustment in the particular circumstances.

- **Altering Hours of Work or Training**

Example: The council allows a disabled person to work flexible hours to enable him to have additional breaks to overcome fatigue arising from his disability. It could also include permitting part-time working or different working hours to avoid the need to travel in the rush hour if this creates a problem related to impairment. A phased return to work with a gradual build-up of hours might also be appropriate in some circumstances.

- **Adjustment to Corporate Action Trigger Levels**

Example: The council allows a disabled person to have a higher level of absence due to their disability before taking any action under the Supporting Attendance Policy. The level of ‘additional’ absence allowable beyond the normal trigger level would be assessed on a case by case basis taking into account medical advice and service impact implications. For example, a person changes medication in relation to controlling their disability which causes them to be unfit for work for approximately 2 weeks while the new medication takes effect. In these circumstances it would be reasonable to delay any action under the [Policy and Procedure for Supporting Attendance at Work](#) as a result of that absence.

Example: An employee with an asthmatic condition and who is prone to have episodic flare-ups, is permitted to have a limited number of additional absences of short duration over the course of the year to enable the condition to stabilise, again subject to medical advice and service impact implications.

- **Assignment to Alternative Workplace or Training or Home Working**

Example: The council relocates the workstation of a newly disabled worker (who now uses a wheelchair) from an inaccessible third floor office to an accessible one on the ground floor. It may be reasonable to move his place of work to other council premises if the first building is inaccessible. Allowing the worker to work from home might also be a reasonable adjustment in certain circumstances subject to policy considerations.

- **Time Off During Working or Training Hours for Rehabilitation, Assessment or Treatment**

Example: The council allows a person who has become disabled more time off work than would be allowed to non-disabled workers to enable him to have rehabilitation training. A similar adjustment may be appropriate if a disability worsens or if a disabled person needs occasional treatment anyway.

Example: Giving, or arranging for, training or mentoring (whether for the disabled person or any other worker). This could be training in particular pieces of equipment which the disabled person uses, or an alteration to the standard workplace training to reflect the worker's particular disability.

- **Acquiring or Modifying Equipment**

Example: All workers are trained in the use of a particular machine slightly different or longer training is provide for a worker with restricted hand or arm movements. Additional training in software for a visually impaired worker is provided so that a disabled employee can use a computer with speech output.

Example: The council might have to provide special equipment such as an adapted keyboard for someone with arthritis, a large screen for a visually impaired worker, or an adapted telephone for someone with a hearing impairment, or other modified equipment for disabled workers (such as longer handles on a machine). However there is no requirement to provide or modify equipment for personal purposes unconnected with a worker's job where the disadvantages do not arise from the council's arrangements or premises.

- **Modifying Procedures for Testing or Assessment**

Example: A worker with restricted manual dexterity would be disadvantaged by a written test, so the council gives that person an oral test instead.

Example: Providing a reader or interpreter

- **Providing Supervision or Other Support**

Example: The council provides a support worker or arranges help from a colleague, in appropriate circumstances, for someone whose disability leads to uncertainty or lack of confidence in unfamiliar situations, such as on a training course.

- **Granting Period of Special Leave**

Example: A worker who has cancer needs to undergo treatment and rehabilitation. The council allows a period of special leave and permits him to return to his job at the end of this period.

- **Participation in Supported Employment Schemes (eg. Workstep)**

Example: A person applies for a job as an office assistant after several years of not working because of depression. Person has been participating in a supported employment scheme where he/she saw the post advertised. He/she asks the council to let him/her make private phone calls during the working day to a support worker at the scheme and the council allows him/her to do so as a reasonable adjustment.

- **Employing a Support Worker to Assist**

Example: An adviser with a visual impairment is sometimes required to make home visits to clients. The council employs a support worker to assist him/her on these visits.

- **A Combination of Measures**

Example: An employee who is blind is appointed to a new job with the council in an unfamiliar part of the building. The council:

- arranges facilities for his/her assistance dog in the new area;
- arranges for his/her new instructions to be in Braille; and
- provides disability equality training to all staff.

Example: The council ensures that an employee with autism has a structured working day as a reasonable adjustment. As part of this adjustment, it is the council's responsibility to take reasonable steps to ensure that other workers co-operate with this arrangement.

HR Policy & Advice
April 2019