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## Employing People with Disabilities Management Guidance Notes

A Network SA Resource for Children's Services

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The Disability Discrimination Act which came into effect in 1992 makes it unlawful to discriminate against a person on the grounds of disability. In the workplace this means that employers must offer equal employment opportunities and that if a person with a disability can undertake the *essential activities* or *inherent requirements* of a job he or she should be given just as much of a chance to do that job as anyone else. Employers should therefore choose the best person for a job whether that person has a disability or not. They should base this decision on the person's ability to perform the essential activities of the job (e.g. educator, clerk, cook) rather than what they assume a person with a disability can or cannot do.

The following guidance notes have been produced in question and answer format and reflect our ongoing commitment to anti-discrimination practices, equal opportunity and diversity including the recruitment and retention of people with disabilities. They should serve as a quick reference guide to all staff whenever they are faced with the practical considerations of dealing with disability issues as well as offering help in interpreting the employment provisions of the law.

**Q How is discrimination defined under the Disability Discrimination Act (DDA)**

**A** It is discrimination under the DDA to treat a person less favourably because of his or her disability than a person without that disability would be treated in the same or similar circumstances. This is known as *direct discrimination*. The DDA also covers discrimination where the same treatment applies to people with or without a disability but the impact is to exclude people with a disability in a way which is not reasonable. This is known as *indirect discrimination*. For example stairs are the same for everyone but some people cannot use them; print on paper is the same for everyone but some people cannot read it. Changing rules and requirements, premises or equipment so that indirect discrimination does not occur is often referred to as making *reasonable adjustments*.

**Q What are included in reasonable adjustments?**

**A** Employers are required to make reasonable adjustments where *employment arrangements* or *physical features* place a person with a disability at a substantial disadvantage compared to people who are not disabled.

Employment arrangements means criteria for deciding to whom employment may be offered or any requirement, condition or term on which promotion, training or other employment benefit is offered. Physical features include the design of a building, points of access and egress, lighting, fixtures and fittings, furniture and equipment.

**Q What adjustments might an employer need to consider**

**A** Before making any decisions employers should first discuss any proposed adjustments with the person affected. These might include:

- Making adjustments to premises
- Allocating some tasks or duties to another employee
- Amending the affected employee's hours of work
- Assigning the person with a disability to a different place of work
- Providing additional training, supervision or related assistance for the individual concerned

- Acquiring or modifying equipment
- Modifying instruction/reference manuals or procedures for testing and assessment
- Allowing the person with a disability to be absent during working hours for treatment, rehabilitation or assessment

**Q What questions should be asked when considering an adjustment?**

**A** The following points need to be considered:

- The likely impact of the changes in addressing the disadvantage
- The practicality of the proposals
- The financial and other costs and likely disruption of the adjustment
- The extent of existing financial and other resources
- The availability of external sources of financial or other assistance

**Q What should I do when I need to recruit?**

**A** Take care when preparing the advertisement, job description and person specification. Always use criteria which are relevant to the effective performance of the job and can be justified in objective terms.

**Q What should I do when arranging an interview?**

**A** Plan ahead. By this stage you should be aware of anyone who may require a reasonable adjustment. Always ask applicants in advance what arrangements would best suit them and make these arrangements in good time. Such arrangements may relate to a candidate who wishes to be accompanied by an interpreter, reader, assistant or carer or one who may have difficulty in accessing the building where the interview will be held.

**Q How do I interview a person with a disability?**

**A** You should carry out the interview in the same way as you would for anyone else after making any reasonable adjustments as identified above. In addition you should

- Emphasise abilities, achievements and individual qualities
- Remember that questions which touch upon a person's disability must be confined to areas relevant to the needs of the job. Before asking a question about a person's life outside work be certain that you would put a comparable question to all other candidates
- Do not make assumptions about an individual's ability to perform a particular task. People with disabilities can develop innovative solutions to everyday challenges often without other support.
- Consider alternatives to written applications such as audio tape, CD or computer

**Q At the end of the interview what if the applicant who has a disability is not the best person for the job?**

**A** Whilst you must not discriminate against a person who has a disability you do not need to discriminate positively in their favour. If after taking into account any reasonable adjustments a person with a disability is not the best candidate for the job you are not required to appoint that person.

## Disability Etiquette

### **Q How should I welcome and communicate with a person with a disability?**

**A** This will largely depend on the nature of the disability for example:

#### **People with hearing impairments**

- Do not make assumptions about a person's ability to communicate or the way in which they communicate - always ask them to tell you
- Remember that people who use sign language find this the easiest communication method
- If an interpreter is present speak to the person you are meeting rather than the interpreter
- If appropriate, use written notes to assist communication with a hearing impaired person
- When you are speaking directly to a hearing impaired person always remember that **SHOUTING DOES NOT HELP**

Do not assume that all hearing impaired people can lip read. Always ask the person when you first meet them. If they do lip read remember that the skill is never wholly reliable, requires intense concentration and can be very tiring.

#### **When meeting a person who is lip reading**

- Look directly at them and speak slowly and clearly
- Use facial expressions and body movements which emphasise the words you are speaking
- Face the light and keep your hands away from your face
- If necessary attract their attention with a wave of your hand or light touch on their shoulder

#### **People with speech difficulties**

- Give your whole attention to a person with a speech difficulty. Be patient, encouraging and resist the temptation to finish sentences
- Ask questions requiring short answers or a nod/shake of the head
- If you experience difficulty understanding the person do not pretend. Repeat what you have understood and be guided by the person's reactions

#### **People with vision impairments**

- Identify yourself clearly, introduce others who are present with you in the room and try to indicate where they are located in relation to you
- If offering a handshake say 'I am holding out my hand to you'
- If help is needed on unfamiliar ground say 'May I offer you my arm'. This will enable you to guide rather than propel the person
- When offering a seat gently place the person's hand on the chair
- When talking in a group remember to say the names of all those involved
- Do not leave someone talking to an empty space. State clearly when you wish to end or move on to the next point of the discussion

### **People who use a wheelchair or crutches**

When talking to someone in a wheelchair for more than a few moments try to position yourself at their eye level to avoid discomfort and check

- Are there suitable parking arrangements?
- Is there a ramp or step free entrance?
- Are there suitable toilet facilities?
- Have reception been notified in advance to provide assistance in case of problems with access and/or making alternative arrangements?

### **Existing Employees**

#### **Induction**

Induction procedures must be non-discriminatory. This may mean making alternative arrangements for a person with a particular disability e.g. by running a separate or longer program.

#### **Promotions, transfers and training**

You must not discriminate when assessing a person's suitability for transfer, promotion or access to training opportunities. This may mean reviewing qualification or experience requirements and/or whether reasonable adjustments can be made. Where particular qualifications are essential criteria, for example to meet the National Regulations, you must abide by those requirements for approval.

#### **Retention of employees with disabilities**

You must not discriminate against an employee who becomes disabled or who has a disability which worsens. If an employee with a disability experiences difficulty in their job you must consider seriously any reasonable adjustment(s) which can be made to address the problem.

#### **Termination of employment**

Dismissal-including redundancy-of an employee with a disability for a reason related to the disability would almost certainly be judged to be unfair and would only be justified if the reason for dismissal could not be addressed or resolved by any reasonable adjustment(s)

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