

**Here is a list of the questions we are asked most often at the Independent Employment Advocacy Centre.**

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## Questions from Disabled People

### ***What can I do if I feel I have been treated unfairly at a job interview?***

Clarify why you didn't get the job with the employer. It may be useful to put this in writing. You could ask them why you were not considered the best candidate for the job, what their criteria was, how the other candidates were scored, what adjustments were made for you (if required) and how they reached their decision. If you are not happy with their response, or the employers are evasive, you could take a more formal route and send them the 'Questions Procedure', available on the Government Equalities Office website [www.equalities.gov.uk](http://www.equalities.gov.uk). This asks the employer detailed questions about their actions and is useful to gather evidence to help you decide whether you have a discrimination case to take to an Employment Tribunal. In time the questions form may be available from the Equality and Human Rights Commission and some Citizen's Advice Bureaus. It is helpful to also get advice from your Trade Union, Law Centre, ACAS or the Equality and Human Rights Commission at this stage. You have up to 3 months from the date you feel you were discriminated against to put in an ET1 form if you wish take the employer to an Employment Tribunal.

Contact the Employment Tribunal Service (ETS) Enquiry Line for more information about the Tribunal system and to obtain relevant free publications.

Telephone: 08457 959 775

Textphone: 08457 573 722

Website: [www.employmenttribunals.gov.uk](http://www.employmenttribunals.gov.uk)

### ***I don't agree with a decision my employer has made about the terms and conditions of my employment. What are my rights?***

Under the Employment Rights Act 1996, all employees must receive the main details of their employment in writing within two months of starting work. These are known as the 'Terms and Conditions of Employment'. Employers must ensure that they do not discriminate on grounds of disability under the Equality Act 2010 and this includes in the terms and conditions of employment. Common areas of concern for disabled people are sickness/absence policies, holiday entitlement, redundancy and occupational pensions. By law employers must not discriminate "in the terms on which the disabled person is offered a job". If your terms and conditions are different from a non-disabled person's then your employer might be in breach of the Equality

Act if they have not been changed as a reasonable adjustment. Also, if the standard terms and conditions put you at substantial disadvantage because of your impairment then that could be discriminatory too. Get advice from the Equality and Human Rights Commission, your union or a law centre. If you require an advocate to support you with this process, please get in touch.

***Can I be turned down for a job for health and safety reasons?***

All employers have a legal responsibility to ensure the health and safety of their employees is maintained. Employers should not jump to conclusions that a disabled person poses a risk to themselves or others in the workplace. This is frequently wrongly used as an excuse for not taking someone on. If you are a disabled person, your employer has a duty to make reasonable adjustments to make the working environment more accessible to you if this is required. Most of the time adjustments will alleviate any risk. If necessary, a properly conducted risk assessment should identify any potential areas of concern and possible solutions to these. It would be very rare that someone would be unsuitable for a job purely on health and safety grounds once all reasonable adjustments have been considered. If you find yourself in this position, contact the Equality and Human Rights Commission for advice. Our advocates can support you with this. You can also find very useful guidance on health and safety and disabled people on the Health and Safety Executive's website at: [www.hse.gov.uk/disability/index.htm](http://www.hse.gov.uk/disability/index.htm)

***I have received notification that I have been overpaid tax credits and have to pay it back. Is this right?***

Unfortunately a large number of individuals and families have found themselves faced with demands from the HM Revenue and Customs to repay overpayments of tax credits. The rules surrounding this are very complicated and what happens next will depend on why it was overpaid and your ability to pay it back. You are obliged to keep the Revenue updated with any changes in your circumstances that affect your income, and provide accurate information when making or renewing your claims. If the overpayment is due to a mistake on the part of the Revenue and you have kept them up to date and reported any errors on statements promptly then you should not have to pay it back.

For a detailed description of what to do when faced with this situation, have a look at the Child Poverty Action Group's factsheet '*What to do if the Revenue decides you*

*have been paid too much tax credit*'. This can be found on their website at [www.cpag.org.uk](http://www.cpag.org.uk) > Welfare Rights > Tax Credits > factsheet 14

Alternatively, contact us for a copy in your required format. We can tell you about specialist advice services in your area and support you with appointments and information gathering.

***If I am offered redeployment, can my employer justify moving me to a position on a lower grade?***

Ultimately, it seems they can, but this should be a last resort after all other avenues have been completely exhausted. They should try to maintain you on the same salary grade and case law suggests that they should even consider a post at a senior grade. On this topic, the guidance from the former Disability Rights Commission says:

*“Should redeployment to a position at a lower grade be the only option, then good practice would suggest that it would be a reasonable adjustment, depending on the size and resources of the employer, to maintain her salary or at least to phase the reduction in salary over a six month period. This will help the employee to plan for her change in financial circumstances. In addition, it may be useful to provide the employee with some additional time off to investigate entitlement to tax credits or additional benefits that could make up the shortfall in income.”*

Case law is being established on this all the time on this area so this could change.

***Can my employer sack me if I take a lot of time off sick?***

Employers should consider making reasonable adjustments to their absence policy. If you are a disabled person and they are aware of this, then they would have to be able to justify it after making all possible reasonable adjustments (including redeployment) and seeking medical advice first. If they do not take these steps then they could well find themselves on the wrong side of the law if your sickness absence was impairment related. Ask for our booklet about absence for more information.

***Can I get sick pay as a reasonable adjustment if my contractual sick pay has finished?***

This is discretionary and will depend on the means of the employer and why you are off. If you are off sick because your employer has failed to make a reasonable adjustment then you may have stronger grounds to request this, based on current case law. Some employers give ‘disability leave’ for impairment related absence, but this is usually unpaid. If you have health insurance this may cover sick pay so check the terms and conditions.

***Do I have to register as a disabled person to get council services?***

Local authority social services departments keep a register of disabled people in their area that they provide services to. The government website 'Direct Gov - [www.direct.gov.uk](http://www.direct.gov.uk)) says:

*"If your disability is 'substantial and permanent', you can register as a disabled person with your local council. They are required to keep a register of disabled people living within the area to help plan services.*

*It is not necessary to register to get local council services but it may help in getting concessions such as reduced fares for public transport - plus it should help your local council plan their services better.*

*Some local councils automatically register you when you apply for help or services from them.*

Contact your local social services department who should also provide someone to help complete the registration form if necessary."

***Do I have to register as a disabled person to get employment or employment support?***

No. This is a very old scheme which was discontinued when the Disability Discrimination Act came into force. Unfortunately a lot of employers are still unaware of this, and are asking people whether they have a green card or are 'registered disabled'.

***Where can I find out about training courses?***

The Next Step Careers Advice Service is a national learning and careers advice line, funded by government. They give advice on local courses and can be contact on freephone voice: 0800 100 900, textphone: 08000 568 865 or search for training online at <https://nextstep.direct.gov.uk/Pages/Home.aspx>. They can also talk to you about funding for learning. If you are based in Greater Manchester, contact us and we will research the options and find out about courses that meet your requirements.

***What if I need specialist equipment for me to see the computer screen at work as my eye sight has deteriorated?***

Speak to your employer and let them know of your requirements. You can contact Access to Work who may then need to commission an organisation with knowledge of your requirements to come and do a workplace assessment. The assessor can tell you about equipment available and how your working environment could be made more accessible. Some or most of this could be funded, depending on how long you have been in the job.

***I am struggling to do part of my job because of my impairment, will my employer sack me?***

They must do everything they can to make reasonable adjustments to keep you in the job. This could include job redesign, allocating some of your work to others or moving you to a different job. What is reasonable depends on the impact the adjustment is likely to have, how effective it will be and whether your employer has the resources to implement it. Ask for our factsheet on reasonable adjustments.

## Questions from Employers / Organisations

### ***Where can I advertise job vacancies to disabled people?***

Advertise in the disability press as well as mainstream and consider using different media e.g. talking newspapers, Ceefax. Ask for a copy of our free booklet: Advertising Job Vacancies. This is also available on our website at: [www.breakthrough-uk.co.uk/Resources/factsheets](http://www.breakthrough-uk.co.uk/Resources/factsheets)

### ***What funding is there to take on a disabled person / make adjustments?***

The main source of financial support comes through the Government's Access to Work scheme. This offers help to disabled people by removing barriers they may experience at work. Support can be practical, including advice on adjustments needed to make work or a work environment more accessible, or financial help in the form of a grant to pay for adaptations required or travel costs incurred. For people you have employed for less than 6 weeks the grant is up to 100% of the costs approved by the Access to Work Adviser. After this time a large proportion of approved costs may still be paid, so it is definitely worth applying even if the 6 week mark has been passed. Assistance provided through Access to Work is flexible to meet the requirements of individual applicants. It does not replace employer's duties under health and safety or disability legislation (for example, the duty to make reasonable adjustments remains the same).

Disabled people can get in touch with Access to Work through a Disability Employment Advisor based at a Jobcentre Plus office, or by contacting the Access to Work Glasgow office to get the ball rolling. They are on tel: 0141 950 5327, minicom 0845 602 5850, or email [atwosu.glasgow@jobcentreplus.gsi.gov.uk](mailto:atwosu.glasgow@jobcentreplus.gsi.gov.uk). We have a factsheet available on the Access to Work scheme as well as a detailed Free Wire issue dedicated to this topic (issue 6).

### ***Can our organisation advertise a job vacancy as 'only open to disabled people?'***

Yes. Most employers can advertise posts as only open to disabled people, except local authorities for whom there are special rules. They can still encourage disabled people to apply though. Unlike other current equality legislation rules, positive discrimination towards disabled people is allowed and may even be required if a reasonable adjustment needs to be made.

***How can we learn about accessible technology for the workplace?***

**Ability Net** are specialists in all aspects of Information Communications Technology for disabled people. They have a freephone helpline on 0800 269545, email [enquiries@abilitynet.org.uk](mailto:enquiries@abilitynet.org.uk) and a useful website with lots of advice for disabled people and employers: [www.abilitynet.org.uk](http://www.abilitynet.org.uk). Contact us for details of other sources of support.

If you have a disabled person working for you who may need some form of access technology to do their job, they can contact Access to Work (see question above for contact details), and ask to have an assessment to identify what sort of technology might be appropriate. Some or all of this technology could be funded.

***How many disabled people do we have to employ – is there a quota?***

No, the quota system doesn't exist now and employers have no set number of disabled people. Disabled people used to have to apply for a Green Card to be 'registered disabled'. Employers were then required to take on a percentage or quota of registered disabled people. This scheme was abolished in 1995 and replaced by the Disability Discrimination Act (DDA) which aims to protect disabled people from discrimination at work and in the recruitment process.

***Can an employee have an assessment to find out if they have dyslexia paid for through the Access to Work scheme?***

Access to Work are now saying that they do not require proof that a person with dyslexia has had an assessment done to get help through their scheme. Disability Employment Advisors can arrange for someone to have an assessment for dyslexia, They can be contacted through your local Jobcentre Plus office.

To find out about other options for assessments you could contact the Adult Dyslexia Organisation on 0207 924 9559. If there is a local Dyslexia Association in your employee's area they can tell you about any independent Educational Psychologists that they are aware of. Local contacts can be found on the BDA website at: [www.bdadyslexia.org.uk/ldas.html](http://www.bdadyslexia.org.uk/ldas.html)

The Dyslexia Institute also has useful information on the assessment process and details of local centres: [www.dyslexia-inst.org.uk](http://www.dyslexia-inst.org.uk)

If your employee is attending a local college for any reason then she may be able to have an assessment done through them free of charge. She would need to speak to

the Learner Support Team at the college to establish this and would need to be participating in a course of study.

Access to Work could assist the employee and employer to look at what support she might need to make the workplace more accessible to her. The support offered would really depend on her duties and how the dyslexia affects her, based on an Access to Work assessment of need. It is the employee's responsibility to contact Access to Work.

***How far do we have to go to comply with the Equality Act, we have very limited resources to make adjustments?***

It is important to remember that most adjustments cost nothing and often revolve around working in a different way rather than buying in lots of expensive equipment. You are only expected to do what is reasonable. Things that would be taken into consideration in deciding whether something is reasonable or not include:

- the funds currently available to you
- the value of the employee or prospective employee's skills and experience.
- how practical the adjustment/s would be and,
- how effective it would be.

You may be able to get financial help through the Access to Work scheme to help with the costs of recruiting or retaining a disabled person.

***Can I sack a disabled person if they are underperforming?***

You must firstly establish whether there are any reasonable adjustments that could be made to remove any disadvantage the person is experiencing in the workplace as a result of their impairment. It is important to speak to the person to find out the reason for the difficulties because there may be issues that you are unaware of and they may well have a solution. See our factsheet on reasonable adjustments and our booklet on good practice in recruitment and retention for tips. Once all possible adjustments have been made and poor performance continues, you can deal with this according to your standard policies and procedures.

***How do I know whether a person is considered to be disabled under the Equality Act?***

Ultimately only an employment tribunal can decide this. Good practice for an employer would be to assume the person is covered! People with an impairment or long-term health condition that has a significant impact on their day to day lives and

has lasted for more than a year are likely to be protected by the Act. People living with HIV, cancer and Multiple Sclerosis (MS) are covered from the point of diagnosis. People who have had an impairment or health condition in the past that meets the above criteria are also covered. Remember that a lot of impairments are hidden. See the Equality and Human Rights Commission's guidance at:

<http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/>

They can be contacted at:

Equality and Human Rights Commission Helpline

0845 604 6610 - England main number

0845 604 6620 - England textphone

0845 604 6630 - England fax

Mon, Tue, Thu, Fri 9:00 am-5:00 pm; Wed 9:00 am-8:00 pm (last call taken at 7:45pm)

Freepost RRLG-GHUX-CTR, Arndale House, Arndale Centre, Manchester M4 3EQ

***Do you have information about good practice in recruitment and selection in relation to disability issues?***

We have info and suggestions for action on good recruitment practice in our 'Landing a Job' handbook for employers. Also ask for a copy of our free booklet, 'Good Practice in Recruitment and Retention' which covers the key areas.

There is also some useful info on the Employers' Forum on Disability website at: [www.efd.org.uk](http://www.efd.org.uk)

***What support is available to employers to take on a disabled person in the North West of England?***

We have produced a factsheet giving brief details of the main regional and national support organisations for employers. If you are a business in the Manchester area you may also wish to contact Breakthrough's Employment Support Team to find out how they can help you with your recruitment needs.

***How can organisations in Greater Manchester find out if their premises are accessible to disabled people?***

You could consider having an access audit done. If you are in the Greater Manchester area, Manchester Disabled People's Access Group (MDPAG) can advise on this. They can be contacted on 0161 273 5033 (voice and minicom), email [admin@mdpag.org.uk](mailto:admin@mdpag.org.uk). There is lots of useful information available on their website at: [www.mdpag.org.uk](http://www.mdpag.org.uk)

10 Further good practice information is available online at [www.breakthrough-uk.co.uk](http://www.breakthrough-uk.co.uk).

There is also a national register of access consultants available online at [www.nrac.org.uk](http://www.nrac.org.uk). The Equality and Human Rights Commission can advise on what must be complied with. If you are employing a disabled person, you may be able to get some support and advice on meeting their specific access requirements from the Access to Work scheme. This is in addition to checking this with the person themselves first of course!

Manchester Disabled People's Access Group have list of useful access resources and you will find a large amount of material on access on the Equality and Human Rights Commission's website at [www.equalityhumanrights.com](http://www.equalityhumanrights.com).

***What can I do if my staff need training on disability issues?***

Our Training and Consultancy department can offer your company bespoke training on the Equality Act, Disability Action Training, the Duty to Promote Equality and more... Contact Liz North on tel: 0161 273 5412, minicom: 0161 273 5727, email: [TandC@breakthrough-uk.co.uk](mailto:TandC@breakthrough-uk.co.uk).

For more details or to request an alternative format, contact us on:

Tel:	<b>0161 273 5412</b>	<b>0161 273 5727</b>
Fax:	0161 274 4053	E-mail:
Answerphone Textphone:		<a href="mailto:advocacy@breakthrough-uk.co.uk">advocacy@breakthrough-uk.co.uk</a>

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