

# FreeWire

Issue 7: Winter 2008/2009



## Anything to Declare?

**Disabled People Working  
Together to Change Employment**

break  through  
Including disabled people



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Welcome to the seventh edition of our regular magazine on tackling employment barriers. This issue contains true stories from disabled people about barriers that have come up for them in employment and how these have been dealt with. In particular it looks at the process of declaring to employers, being open about your requirements and negotiating for change.

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<b>Article</b>	<b>Page</b>
Am I A Burden?	3
Independent Advocacy and Information	6
Considerations When Declaring	7
Free Information	16
Speaking Up at Work	17
Getting Involved	20

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# Am I A Burden?

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“ I am visually impaired and lost my sight when I was a child. I live with deteriorating sight loss. So when I entered the world of work, disclosing my disability was never an issue as it's not invisible. Even though I disclosed, landed myself some great jobs, I felt that until now I never truly disclosed my access issues. Disclosing to my line manager that I needed help and support was really hard for me in the first few years at work.

Some of the main issues I've encountered with disclosure are that the obligation to ask for help was put on to me. I had to go to my line manager and tell her the access issues. Although I recognise that I do need to speak up and it is my responsibility to step forward, at the same time I didn't want to burden my line manager with what I saw were my problems.

One of the main reasons for doing this was because I didn't want to put more pressure on my line manager. They let us all know how busy they were and how stressful their job was. I didn't want to become another stress.

I also feared being seen as an unproductive member of staff. I felt that because of my visual impairment, if I had any problems I would give them extra work.

I also think I was going through an acceptance process of my impairment and I found it really difficult to talk about my sight impairment. I was scared that I'd burst into tears if I started telling my manager my issues. Then that would open up a whole new can of worms and I would then have to explain myself further.

I now am in touch with Breakthrough UK and my local coalition and I have learnt so much about my rights. I can't believe that I ever let myself get to such a lonely isolating position. There are a lot of people out there who can help, who have been through the same situation as you. It really helped me to share knowledge and experience with others.

I now know that it's really important to disclose all your access requirements. This will have to be an on-going process as access requirements will change, sometimes from day to day. I know I find new ways of doing things, new ways of working with my Personal Assistant (PA) and I must adapt to that.

Keep the lines of communication open, don't let them break down. It's easy to carry on as normal and forget to talk to your line manager or PA about the difficulties you're facing.

Pick a date in the diary and try to put aside time to assess how your work is going. Are you feeling supported and is there anything that your employer can make easier for you?



Make notes or a list on how you feel. Make sure you read this or email it to your line manager and keep them informed.

Don't let things pile up such as Access to Work (AtW) claim forms, benefit claims etc.... try to time-table when you're going to deal with these. Ask your line manager if you need to. If you use a PA, delegate a lot of the AtW claim responsibilities to them, this really helps take off the pressure.

I've now been working for the past 10 years. Over this time I have grown in confidence in expressing my access needs both at work and in life in general. I look back on the way and the extent I used to hide my difficulties and it astounds me.

I'd urge anyone who is feeling as if they're hiding problems to tell someone as you're not alone. The problem is not with you, you may just need to sort out more support to enable you to do your job and be independent. Don't blame yourself.

However, life would have been made so much easier if my manager had looked out for me more – had taken the time to ask me if I was coping. I needed someone to support me to figure out my access requirements and a line manager should be able to do this. The onus shouldn't always be on the disabled person to come forward whenever they have issues. It would be nice if someone else also understands what you may need. ”

# Independent Advocacy and Information

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Independent Advocacy is about supporting people to get their point of view across, get the right information and stay in control of situations.

Are you facing issues around work or work-based training that may affect your ability to work?

We offer a flexible confidential service in:

- Getting information about your options
- Checking out your facts so far
- Support at meetings and appointments
- Signposting to access other services in your area

We don't do:

- Direct advice or make decisions
- Any representation such as legal or debts
- Form filling, CV writing or job searching

But we will:

- Give you moral support
- Provide information on options
- Make links with relevant advice agencies
- Talk through how to make your own decisions
- Focus on the outcomes you want first and foremost

# Considerations When Declaring

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One of the most common questions we are asked is – **if, how and when should I declare an impairment or health condition to an employer?**

This may be more clear cut for some people than others. Some people with hidden impairments may have more flexibility about whether to declare or not, but the timing can be an issue for everyone. This is a question which prompts a lot of debate during self advocacy workshops. For some disabled people the main issue is whether to mention an impairment or health condition at all. For others it is more about when to bring up a requirement for a particular adjustment or need for assistance – in other words, how far to go when discussing your requirements and highlighting barriers.

Many disabled people have reported to us that they have waited until things became very difficult before telling a line manager about an issue:

*“I put all my energy into finding ways of getting the job done without declaring my impairment. My approach included volunteering for tasks which weren’t a problem and then being ‘too busy’ to take on other things which were more tricky. I took work home to spend extra time on it. I also confided my situation to one colleague who was very supportive in unofficially trading and sharing tasks. This stage was extremely stressful and became impossible to sustain.”*

The Disability Discrimination Act 1995 Code of Practice on Employment and Occupation written by the former Disability Rights Commission states that:

*“The Act does not prohibit an employer from seeking information about a disability. However, the Data Protection Code of Practice on Employment states that information should not be sought from applicants unless necessary to enable the recruitment decision to be made, or for a related purpose such as equal opportunities monitoring. Disability-related questions must not be used to discriminate against a disabled person. An employer should only ask such questions if they are, or may be, relevant to the person’s ability to do the job – after a reasonable adjustment, if necessary.”*

The bottom line is that you would very rarely be under any legal obligation to declare to a prospective or current employer that you are a disabled person or have a health condition. However, there are a lot of things to consider about the impact that declaring or not could have on your working life:

- Being open is a strategy that many disabled people find helps them to negotiate adjustments and have a positive employment experience.
- It may be impossible for you to do your job effectively or to the best of your ability if you do not discuss your requirements for adjustments with your employer.
- You only have rights under the Disability Discrimination Act at work if it is reasonable for your employer to know that you are a disabled person under its terms.

- You may be unable to prove yourself at interview if you do not ask for changes to be made.
- You may need time off during working hours to attend medical appointments.
- You may need somewhere to store or take medication, or time to deal with its side effects.
- If you are asked a direct question and you do not tell the truth, this may be considered a breach of mutual trust by the employer in the future if it came to light. This could potentially lead to disciplinary action or dismissal. If this happens during your first year of employment then you would be unable to claim for unfair dismissal and it might be hard to prove disability discrimination as your employer would not have been aware that you were likely to come under the terms of the Disability Discrimination Act. At the time of writing there is a case going through the courts where a high profile employee is being sued by her former employer for not mentioning her history of depression when asked about her medical history. When the outcome of this case is known we will update this factsheet as it could have significant implications for people when deciding what to declare on application forms or CVs.
- It may affect your working relationships if you feel you cannot talk about a significant part of your life or past with colleagues that you become friends with.
- You may want to pre-empt any potential incorrect assumptions that could be made about you.

- It may be difficult to explain long impairment related gaps in your employment record if you are not open. The employer may jump to unfavourable conclusions about what these represent.



- It may help to create a positive and open culture in your workplace if disabled people declare themselves. There will then be more opportunities to gain from in-work peer support such as disabled staff groups that campaign collectively for change.
- Your employer will have more of an idea of the requirements of their staff members and will be better placed to meet their equality duties.
- On the other hand, if you feel that your impairment would not affect your ability to do the job well, then you may feel that it is not worth mentioning.
- If you do declare at the recruitment stage and you feel that this was the reason you were not appointed, some disabled people argue that it may be difficult to prove that this was the reason.

### **Application forms:**

Many application forms ask applicants if they consider themselves to be a disabled person, have a medical condition, or are on any medication. Why might they do this? Common reasons – not all of which are legitimate – could be:

- They want to know whether you are likely to be covered by the Disability Discrimination Act (DDA). Some will

quote the DDA definition of disability and ask whether you feel you fit into this. If you are covered then the employer has a duty to make reasonable adjustments for you if otherwise you would be at a substantial disadvantage. It is good practice for employers to assume you are covered without asking for evidence.

- They want to monitor how many disabled people are applying for jobs under their Disability Equality Duty.
- Some will simply want to know whether you require any adjustments either for the interview or to do the job.
- They want to know whether you are medically fit to do the job (see pages 12–13).
- They are trying to work out whether you are likely to take a lot of time off sick!
- There may be questions asked about disability (and often about ethnicity, gender, age, sexual orientation and religion as well) for equal opportunities monitoring purposes. These enable the employer to see whether they are reaching a diverse range of candidates. Such information should be anonymous and separated from the application form on receipt. On a related note, it is good practice for personal information such as your name to be excluded from the information provided to people shortlisting, as it may be easy for them to deduce information such as your gender, likely age and possibly ethnic origin from this.
- They may operate a scheme in which disabled people automatically get an interview if they meet the minimum requirements of the post.

**CV.** Not all employers will accept CVs. A possible advantage of a CV is that you can present yourself in your own way and you can tailor it according to the requirements of the company you are applying to by using a covering letter. Some people recommend explaining any impairment related gaps in your CV in the covering letter but it's really up to you whether to do this.

**At Interview.** Some people prefer to wait until an interview to declare and talk about any possible requirements, although this means that the employer will not have had a chance to put adjustments in place in advance for your interview if you need them.

You can use declaration as a way to demonstrate your creativity and problem solving abilities. Experiences and transferable skills you have gained as a disabled person, for example managing a personal assistant, may have enabled you to develop an array of competencies that would be very attractive to an employer.

### **Medical screening:**

Some jobs require that a medical questionnaire is completed.

This should only be done after a conditional offer of employment has been made – employers should always decide who to appoint first. Employers should

not only ask a disabled applicant to complete a medical form as this would be discriminatory. Only medically



qualified people should be involved in determining whether there is a medical issue that would genuinely affect you in the job. If medical screening is done at all – and this is a highly contentious area – the emphasis should be on looking at what adjustments can be made. Medical issues should not stop you from getting the job unless they genuinely have a substantial effect on your ability to do the job which cannot be overcome by making reasonable adjustments. Screening is more common in public sector and health related jobs. For more information about collecting data on workers' (including applicants' health), see chapter 4 of the Information Commissioners Office Code of Practice on Employment:

**[www.ico.gov.uk/upload/documents/library/  
data\\_protection/detailed\\_specialist\\_guides/  
employment\\_practices\\_code001.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/employment_practices_code001.pdf)**

### **During employment:**

Some people prefer to wait until they have built up some close working relationships and 'proved their worth' to their employer before telling the employer that they are a disabled person or discussing their requirements in more depth. If you don't need any adjustments at interview or when starting the job, this can give you a chance to test the water before deciding what you want to reveal. See the February 2009 edition of Free Wire magazine for an article on the pros and cons of when and what to disclose during employment.

A good approach from the employer's point of view would be to constantly review staff members' requirements for

adjustments – including those employees who have not actually said that they consider themselves to be a disabled person. This way, people may feel less like that have to hide any issues they are having, and barriers can be dealt with more effectively as they arise. Encourage your employer to commission Disability Equality Action Training for their workforce – managers especially – as this will help develop a workplace culture where people feel confident to be open about their requirements without fear of potential discrimination.

### **Confidentiality:**

If you choose to declare and you would prefer others not to know, you can ask for the information you provide to your line manager or human resources representative to remain confidential. It should only be passed on to others with your consent anyway. ‘Sensitive personal data’ such as a medical condition must not be divulged by the employer as this could well be a breach of the Data Protection Act. Any information you provide to medical personnel can only be passed on with your express, written consent. Information passed on in confidence should not be shared with anyone else unless you decide it would be helpful for others to know. See the Information Commissioners guidance on data protection in relation to worker’s health below:

**[www.ico.gov.uk/upload/documents/library/  
data\\_protection/practical\\_application/coi\\_html/english/  
employment\\_practices\\_code/part\\_4-  
information\\_about\\_workers\\_health\\_2.html](http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/coi_html/english/employment_practices_code/part_4-information_about_workers_health_2.html)**

## Health and Safety

It is extremely rare that the effects of someone's impairment would present a health and safety risk which could not be overcome by making reasonable adjustments. This is a big area to go into here, but you can find some very useful guidance on this topic on the Health and Safety Executive's website at:

**[www.hse.gov.uk/disability/index.htm](http://www.hse.gov.uk/disability/index.htm)**

## Ongoing Process

Many people find that declaring is not a single event, but can often be a series of small discussions that need to be had when specific barriers are encountered:

*"I have a supportive working environment and I can negotiate any adjustments necessary. I am trying to target my energies at selected barriers I face when out at events and external training. I spend quite a lot of time calmly explaining and educating."*

# Free Information

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If you are a local disabled person we can help with information about:

- Problems at work
- Bullying at work
- In-work benefits
- Finding the right help to get into work
- Understanding your rights at work



You can get free monthly updates from Breakthrough about employing disabled people by email.

You can come into our accessible office to look at useful resources and use our information point. Assistance is available if required.

You can download factsheets and booklets on employment issues on our website at:

**[www.breakthrough-uk.com/factsheets.shtml](http://www.breakthrough-uk.com/factsheets.shtml)**

Get in touch with our friendly information team to find out more:

Telephone: 0161 273 5412

Minicom: 0161 273 5727

Email: **[advocacy@breakthrough-uk.co.uk](mailto:advocacy@breakthrough-uk.co.uk)**

# Speaking Up at Work

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“ I had been open on my application form. Sort of. I thought that it would be a good idea to say I had ‘experienced a period of depression from which I have now fully recovered.’ Not quite the full picture, but it was all they needed to know at the time and it explained the gaps in my employment record. It also meant I didn’t have to worry about tripping myself up if I mentioned something about my life to a colleague in the future. Nobody asked me anything else about it.

As far as I was concerned that was the end of it. I didn’t need any adjustments to do my job. But three years down the line my role had changed completely and I was struggling to cope. Looking back I think this was a lot to do with inadequate training for the new responsibilities I had been given and not enough bums on seats to do the work. It wasn’t just me. More pressure was building up. I was starting to have problems again, both in and out of work.

I was in a bad state one day and was advised by my manager to go home and speak to my doctor about getting signed off sick with stress for a while. The cat’s head was emerging from the bag. After a couple of weeks I returned, but I knew I was not performing well and was trying to cover up my mistakes to avoid getting found out.



Things were spiralling out of control and I knew I was going to have to talk to someone more openly if I was going to do the work any justice and hold my job down.

Before arranging to speak with my manager I looked at the issue from as many angles as I could. I considered the likely outcomes if things stayed as they were – probably more sickness absence, further loss of confidence in me from my boss, frustrated clients, missed deadlines, worsening health, more pressure... What would need to change for me to be able to do the job effectively? How easy would this be to implement? Could I afford to reduce my hours? How flexible could I be? How flexible could they be?

I came up with a few suggestions including assertiveness training to deal with angry clients (knowing this was already available for some staff), and a proposal to reduce my hours slightly and condense my working week. I tried to put forward options that would be beneficial to both parties. I had received good appraisals of my work throughout my employment so hoped that they would prefer to help me to stay in work if a reasonable way to do this could be found.

The meeting with my line manager was surprisingly short. I explained what I thought was going wrong quite openly, and how I felt these things could be addressed. I asked for her feedback and she agreed with what I had suggested. Some of the issues such as staff shortages were being addressed in the longer term. Within half an hour she had

conferred with her manager and they had agreed to a change to a more flexible shift pattern over shorter hours. They also offered me some additional training. This enabled me to stay in my job for another year before I moved on. I believe that things would have been a lot worse – for me, my employer and our clients – if I had not had this conversation and prepared well for it beforehand. It would have been good if they had asked me more proactively what could work, but at least I was able to stay in control of the process this way.

If I had known more about the law and about a barrier removal approach this would probably have helped me even more when I was negotiating. Perhaps I was lucky to have a supportive employer, but the experience has taught me that it is possible to find workable solutions to things before they reach an irretrievable crisis point. ”

# Getting Involved:

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Would you like to see your ideas in print?

Do you want to share your views on employment with other disabled people?

You can contribute to Free Wire by:

- Being interviewed
- Writing an article
- Commenting on articles
- Drawing pictures
- Editing the magazine



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