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# Reasonable Adjustments & Complaints

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## The Equality Act 2010 & Service Providers

- Certain mental health conditions may amount to a “disability”, as defined in the Equality Act
- Part 3 Equality Act protects disabled people from discrimination by a service provider when using any service or public function which is provided to the public or to a section of the public
- ‘Services’ – defined broadly
- ‘Service providers’ – anyone who is concerned with the provision of goods, facilities, services or public functions to the public or a section of the public

## Service Providers & Discrimination

There are various duties on service providers not to discriminate...

- A service provider must not discriminate against a disabled customer by failing to provide him/her with a service of the usual quality / in the usual manner / on the usual terms
- A service-provider must not, in providing a service, discriminate against a disabled customer as to the terms upon which it provides the service / by ceasing to provide the service / by subjecting the customer to any other detriment
- Service providers must comply with their duty to make reasonable adjustments in favour of disabled customers...

## Service Providers & Reasonable Adjustments

- The duty to make reasonable adjustments requires service providers to take positive steps to ensure that disabled people can access services...
- The duty goes beyond avoiding discrimination: instead, it requires service providers to anticipate the needs of potential disabled customers by making reasonable adjustments to the services being provided...
- The duty's purpose is to provide access to a service which is as close as is reasonably possible to the standard normally offered to the public at large (and their equivalents in relation to the exercise of public functions)

## Service Providers & Reasonable Adjustments

The duty imposes three requirements on a service provider, including:

- Where a service provider's **provision, criterion or practice** puts disabled people at a substantial disadvantage in relation to the provision of the service in comparison with non-disabled people, the service provider must take reasonable steps to avoid that disadvantage;
- Where disabled people would, but for the provision of an **auxiliary aid or service**, be put at a substantial disadvantage...then the service provider must take reasonable steps to provide the auxiliary aid or service.

## Service Providers & Reasonable Adjustments

- The duty to make reasonable adjustments...
  - Is owed to disabled people generally;
  - Applies regardless of whether the service provider knows that a particular person is disabled or whether it currently has disabled customers, etc.;
  - Is anticipatory: service providers should not wait until a disabled person wants to use a service – they should anticipate the requirements of disabled people and the adjustments that may have to be made for them;
  - Is a continuing, evolving duty;

## Service Providers & Reasonable Adjustments

- What is a reasonable step for a particular service provider to take will depend upon all the circumstances and will vary according to:
  - the type of service being provided;
  - the nature of the service provider and its size and resources; and
  - the effect of the disability on the individual disabled person.
  
- Reasonable factors will include:
  - Effectiveness / practicability / disruption / financial and other costs\* / Extent of the service provider's financial or other resources / Amount already spent on making adjustments / Availability of financial or other assistance

\*(The cost of making adjustments cannot be passed on to the disabled customer)

## Practical steps to avoid discrimination...

- Establish and communicate a policy to ensure equality of access to / enjoyment of services by potential service users or customers from all groups in society;
- Train all staff to understand the policy & their legal obligations;
- Monitor the implementation and effectiveness of the policy;
- Maintain an easy to use, well-publicised complaints procedure;
- Review practices to ensure that they do not unjustifiably disadvantage particular groups; and
- Consult customers, etc. about the quality and equality of the services and how they could be made more inclusive

## Practical steps to avoid discrimination...

- Re the duty to make reasonable adjustments, the following actions will help service providers meet their obligations:
  - Review regularly whether services are accessible to disabled people;
  - Carry out and act on the results of an access audit carried out by a suitably qualified person;
  - Provide regular training to staff which is relevant to the adjustments to be made; and
  - Review regularly the effectiveness of reasonable adjustments and act on the findings of those reviews

## Service Providers' duties

- Reasonable adjustments in practice:
  - Plan in advance for the requirements of disabled people and regularly review existing adjustments;
  - Ask disabled customers for their views on adjustments;
  - Consult local and national disability groups;
  - Draw disabled people's attention to relevant reasonable adjustments so that they know that they can use the service;

## Practical steps to avoid discrimination...

- Reasonable adjustments in practice (cont.):
  - Properly maintain auxiliary aids and have contingency plans in place in case of their failure;
  - Train employees to appreciate how to respond to requests for reasonable adjustments;
  - Encourage employees to develop additional serving skills for disabled people (for example, communicating with hearing impaired people); and
  - Ensure that employees are aware of the duty to make reasonable adjustments and understand how to communicate with disabled customers so that reasonable adjustments can be identified and made

## And so to the specific question...

- “Reasonable adjustments...

...What is expected in terms of making reasonable adjustments when handling complaints from people with (1) diagnosed or (2) potential mental health conditions or Autistic Preference Disorders?

...How to respond to complex clinical matters in a non-clinical setting?”