

Disability Discrimination Act **1995**

Codes of practice
Qualification Bodies
October 2004

Codes of Practice

- **Outlines new legislation and duties for qualifying bodies**
- **Purpose to enable disabled people to enter employment through qualification and registration**
- **Avoid complaints/litigation**
- **Encourages good practice**
- **Improve performance and quality of services**

Who is protected?

Definition of disabled person

Some one with a physical or mental impairment, that has a substantial, adverse long term effect on their ability to carry out normal day to day activities

What is a Qualification Body?

- **An authority or body which can confer, renew or extend a professional or trade qualification.**
- **A professional or trade qualification is an authorisation, qualification, recognition, registration, enrolment, approval or certification which is needed for, or which facilitates engagement in a particular profession or trade**

Unlawful to Discriminate

Against disabled people in relation to conferring professional or trade qualifications

- In the arrangements it makes for the purpose of determining upon whom to confer a qualification**
- In the terms on which it is prepared to confer such a qualification**
- By refusing or deliberately omitting to grant any application by him for a qualification**
- Withholding such a qualification from him or**
- Varying the terms on which he holds it**

Four types of discrimination

- **Direct Discrimination**
- **Failure to make reasonable adjustments**
- **Disability related discrimination**
- **Victimisation**
- **And Harassment of disabled people is unlawful**

1. Direct Discrimination

- **If a disabled person is treated less favourably on the grounds of his disability, in comparison to how another, in relevant circumstances, is or would be treated.**
- **Acting on stereotypes, assumptions, prejudice, unwittingly and even without knowing they are a disabled person**
- **Cannot be justified**

2. Failure to make reasonable adjustments

- **A form of discrimination in its own right**
- **Duty owed to disabled applicants, potential applicants, and current members**
- **This duty arises where a provision, criterion or practice applied by or on behalf of the QB, or any physical feature of premises it occupies, places a disabled person at a substantial disadvantage compared to a non-disabled person.**
- **QB has to take reasonable steps to prevent the disadvantage**
- **Failure to make a reasonable adjustment cannot be justified**

Examples of reasonable adjustments

- **Alter physical features of buildings**
- **Giving training or mentoring**
- **Acquiring or modifying equipment**
- **Modifying procedures for testing or assessment**
- **Modifying arrangements for meetings and the way information is provided**
- **Providing readers and interpreters**
- **Conduct assessment with disabled person**

What is reasonable?

Dependencies

- **The effectiveness of the step in preventing disadvantage**
- **The practicability of the step**
- **The financial and other costs**
- **The extent of disruption caused**
- **Financial resources available to the QB**
- **Availability of other financial assistance**
- **Nature and size of the QB**
- **Not permitted to justify a failure but can argue about 'reasonableness' with evidence.**

3. Disability Related Discrimination

- **Less favourable treatment that is 'related' to a person's disability but not directly**
- **The treatment is less favourable than the way a QB would treat others to whom that reason would not apply**
- **The QB cannot show the treatment was justified**
- **Can justify less favourable treatment**

When is justification permitted?

- Material to the circumstances of the case
- A strong connection between the reason given and the circumstances
- And Substantial means that reason must carry real weight and be of substance
 - Avoid stereotypical health and safety assumptions, ask for medical evidence when merited and a suitable risk assessment
 - Avoid blanket policies-usually unlawful

4. Victimisation

Unlawful and occurs when a person treats another (the victim) less favourably than he would treat another because the ‘victim’ has

- Brought or given evidence or information in connection with proceedings under the Act**
- Done anything else under or by reference to the Act**
- Alleged someone has contravened the act**
- Or because the person believes or suspects the ‘victim’ has done or intends to do any of these things.**
- Can be claimed by disabled and non-disabled people**

Harassment

- Occurs when for a reason related to another's disability a person engage in unwanted conduct which has the purpose or effect of
- Violating the disabled person's dignity
 - Creating an intimidating, hostile, degrading, humiliating or offensive environment

Competency Standards

An academic, medical or other standard applied by or on behalf of QB for the purpose of determining whether or not a person has a particular level of competence or ability

- **The process for attaining the standard e.g. exam or observed practice may or may not involve a competence standard**
- **There is no requirement to make reasonable adjustments in respect of a genuine competence standard**
- **Such a duty is likely to apply in respect of the process by which the competence is assessed**
- **Avoid discrimination by identifying specific purpose of competence standard**
- **Considering its impact on disabled people**
- **Reviewing its purpose and effect in light of developments in technology**
- **Examine alternate ways of achieving**
- **Document these issues, conclusions and reasons**

Implications for action

- **Establish policy to prevent discrimination- review competencies-communicate to all employees**
- **Monitor implementation and effectiveness of policy**
- **Monitor disabled people applying and holding qualifications/registration- explain purpose**
- **Design accessible complaints and grievance procedure**
- **Set up system to request reasonable adjustments-link with education providers**
- **Review effectiveness of reasonable adjustments**
- **Provide training on Act, QB policy and the practice of reasonable adjustments**
- **Invite disclosure- inform why and keep records**
- **Pass on information only with permission**
- **Seek expert advice- access to websites, communication systems and buildings**
- **Set up system with education providers to inform of reasonable adjustments to tests and registration procedures**
- **Have a contact person for disabled applicants qualification holders**
- **Respect confidentiality- discuss the implications and boundaries with disabled people**

ERROR: undefinedfilename
OFFENDING COMMAND: c

STACK: