

Nothing about us without us

DAY OF ACTION ON DISABILITY

21 NOVEMBER 2018

A Day of Action for Disability Equality in Education has been called to highlight the challenges and barriers faced by disabled people working in education, as well as to celebrate the progress which has been made.

We are calling on politicians to pledge their support for:

- **time limits for the implementation of reasonable adjustments**
- **A review of building regulations to ensure they meet the accessibility needs of disabled people**
- **a statutory right to disability leave**
- **the right for disabled people to access mainstream education and a reversal of cuts to SEND provision.**

BACKGROUND

UCU represents over 110,000 workers in higher education, further education, prison education and adult education, including over 2,200 members who self-identify as disabled.

In May 2015, the union undertook a survey of its disabled members to find out more about the key issues they face in the workplace. The majority of members reported that they were confident about disclosing their disability at work, and that their colleagues and students were supportive.

However, disabled members still face a number of challenges in the workplace, including:

- **delays and issues with reasonable adjustments:** members reported a lack of awareness about access requirements and delays or failures in implementation of reasonable adjustments
- **barriers to career development:** 77% of survey respondents felt their disability has worked against them in terms of development and career prospects and had made them more likely to face performance management.
- **Poor access to disability leave:** only 9% of survey respondents reported having access to disability leave; for many, disability-related absence is recorded as



sick leave, leaving them at higher risk of performance management or redundancy, or facing pressure to go part time

- **bullying and discrimination:** many staff have been undermined by senior colleagues and have experienced unfavourable treatment including bullying
- **narrow range of support:** in challenging disability discrimination, measures such as training for senior staff and sanctions against perpetrators are favoured by institutions over mentoring schemes and disabled staff groups.

The Day of Action for Disability Equality in Education is calling for:

1 TIME LIMITS FOR THE IMPLEMENTATION OF REASONABLE ADJUSTMENTS

Disabled people face many barriers both in getting a job and in the workplace. The Equality Act 2010 places a duty upon employers to make adjustments that aim to remove these barriers, so that a disabled person is not put at a disadvantage when compared to a non-disabled person. These may include changes to ways of working, removal of physical barriers, or providing extra support in other ways.

The Equality Act states that it is unlawful to discriminate against workers because of a physical or mental disability or to fail to make reasonable adjustments to accommodate a worker with a disability. This applies to current disabled employees, employees who become disabled, and during the recruitment of prospective employees.

A reasonable adjustment would mean that as far as is reasonable, a disabled worker has the same access to everything that is

involved in applying for, doing, and keeping a job as a non-disabled person. Many of these adjustments will be simple and inexpensive. They include providing a nearby parking space, providing a piece of equipment or allowing for regular breaks.

Employers are not under any obligation to implement changes that may be considered unreasonable due to factors such as cost or practicality, or if they believe an adjustment would not be effective in overcoming the disadvantage. However, this means negotiations about reasonable adjustments often rest upon how well either side can argue that changes are 'reasonable'.

If an employer fails to make a change that is later found to be reasonable at an employment tribunal, then the employer may be ordered to pay compensation, as well as implementing the change itself.

Many of our members find that they have to wait too long for reasonable adjustments to be put in place, putting them at a huge disadvantage in being able to do their job effectively. These can cause personal stress and anxiety, place pressure on colleagues, and lead to capability and performance issues. Many members dread going into work where they are being set up to fail.

Time limits for implementation of reasonable adjustments will support disabled people to be able to do their job effectively.

2 A REVIEW OF BUILDING REGULATIONS TO ENSURE THEY MEET THE ACCESSIBILITY NEEDS OF DISABLED PEOPLE

Although new buildings are subject to a range of minimum requirements when it comes to access, designers and contractors still regularly fail when it comes to ensuring



that new buildings are fully accessible.

The UK Building Regulations and British Standard 8300 set out minimum access requirements for design and construction, and there are other sector-specific sets of standards such as the rail industry's Design Standards for Accessible Railway Stations. Overall, though, the UK does not have a decent framework in place to govern the accessibility of the built environment, and there is a gap in understanding how the Equality Act 2010 applies to the built environment.

People with neurodivergent profiles – for example those with autism, dyslexia or Attention Deficit Hyperactivity Disorder (ADHD) – may also face challenges in the workplace. Many neurodivergent workers have elevated levels of sensory sensitivity, relative to the average worker. This means that brightly lit, noisy offices or open plan offices can be a source of distraction and anxiety if adjustments are not made.

Despite growing awareness of these issues, few employers address them in their policies or working practices. However, simple changes to how buildings are designed and managed can be made to accommodate these needs. These include avoiding bright lights and open spaces which can be overwhelming, providing quiet areas and conducting regular workspace questionnaires to assess people's needs and preferences.

A review of how the building regulations interact with obligations under the Equality Act is urgently needed. Consultation procedures under planning regulations should make accessibility a key criterion when making decisions. Those working in architecture, planning and building management should also be required to demonstrate

knowledge of access and inclusion when undertaking their roles.

The flexibility within the current regulations allows imaginative designers to come up with buildings which may win awards but mean many cannot access them; that same imagination could be harnessed to create truly accessible buildings for all.

Accessible buildings will enable disabled people to access work

3 A STATUTORY RIGHT TO DISABILITY LEAVE

Many workers report a lack of support from employers to resolve sickness absence caused by a disability. Instead of enabling disabled people to stay in their jobs, the focus can become one of removing them from the workforce if repeated absence means they are judged no longer capable of fulfilling their duties.

Many employers have moved to make their absence management policies more restrictive, for example by introducing targets to reduce sickness absence and short-term intermittent absence, or increasing use of tracking tools like the 'Bradford factor' system to assess the frequency and duration of an individual's sickness absence.

As a result, every year many disabled people whose impairment(s) require them to take time off work but who are still capable of returning to work find themselves dismissed through sickness absence procedures which make no allowance for disability-related absence. There may be pressure to take ill-health or early retirement due to continued sickness absence, when in fact the individual may be able to continue working with a reasonable adjustment.



Absence from work due to a disability should be treated differently and distinctly to regular sickness absence, and have a separate agreed policy relating to it. It should protect disabled employees from any discrimination related to absence caused by a disability that would otherwise be treated as sickness absence. Examples of this include periods where an employee is well but requires training to work with a guide dog or use new equipment, periods of treatment or recovery relating to the disability, or times when the employee is awaiting an assessment relating to reasonable adjustments.

Making disability leave a statutory requirement in the Equality Act will support disabled people to stay in work.

4 THE RIGHT FOR DISABLED PEOPLE TO ACCESS MAINSTREAM EDUCATION AND A REVERSAL OF CUTS TO SEND PROVISION

Education transforms lives, and everyone should have fair and equal access to the learning opportunities which best meet their needs and aspirations.

However, in recent years cuts to funding for disabled students and broader changes to student finance have made it harder for students with additional needs to access further and higher education.

The government has made £30m of cuts to Disabled Students Allowance since August 2015, which has resulted in less funding for specialist IT equipment and non-medical help such as mentoring, study skills support, note-takers, interpreters and physical assistance.

Restoring proper support for disabled students will enable them to get the most out of school, college and university.

SOCIAL MODEL OF DISABILITY

The social model of disability focuses on the ways in which society is organised, and the social and institutional barriers which restrict disabled people's opportunities. The social model sees the person first and argues that the barriers they face, in combination with their impairments, are what disables them. Barriers - including attitudes and perceptions around disability - can make it impossible or very difficult for disabled people to access jobs, buildings or services. Removing these barriers is the best way to include millions of disabled people in our society.

SEE THE PERSON, NOT THE DISABILITY