

DISABILITY DISCRIMINATION

1.0 INTRODUCTION

The Disability Discrimination Act 1995 introduced new laws aimed at the elimination of discrimination against disabled people and persons who have had a disability. The Act affects employers and almost everyone who provides goods, facilities and services to the general public whether payment is received or not. (Referred to in this policy as Service Providers). The ACT was later superseded by the Equalities ACT 2010 and further enhanced the rights of disabled people.

A disabled person is defined as “one who has a physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day to day activities”. The provisions in the legislation also extend to those who have had a disability.

1.1 Policy

It is the policy of Poole Housing Partnership Limited to commit itself to the elimination of discrimination against disabled people or people who have had a disability. The following procedure describes our policy for the elimination of such discrimination.

- Poole Housing Partnership Limited actively supports the principle of equal opportunities in employment and is opposed to unlawful or unfair discrimination including discrimination on the grounds of sex, race, nationality and disability. Poole Housing Partnership Limited believes that it is in its best interest that the human resources, talents and skills available within the organisation and throughout the community are considered when opportunities for employment, training, development etc. arise.
- Unjustified discrimination of any kind which prevents us achieving our aims is viewed as a misuse and waste of human resources.
- Poole Housing Partnership Limited believes that in the majority of cases it will be readily discernible which of its employees, or those people who apply for work, are disabled people. When made aware that someone has a disability, management can then fully discuss with them the various practical issues associated with their disability and how they may be successfully integrated into the organisations work environment.
- There will be circumstances where management has not recognised that an employee has a disability, as a result of which no assistance is likely to have been offered. Where the employee considers that they have a disability which they would like to discuss in confidence with management to determine what assistance may be available, they should contact the Head of HR & OD.
- As a part of this discussion process Poole Housing Partnership Limited can consider implementing “reasonable adjustments” within the work environment to assist the disabled person.

1.2 Support for disabled employees

Poole Housing Partnership Limited will provide any of its employees who become disabled with the necessary support as is possible within business constraints in operation at the time; this will include making “reasonable adjustments” to the working environment and arrangements so that the employee can where practical, maintain, or return to, a role appropriate to their experience and ability within our organisation.

Management will consult with the disabled employee at an appropriate time or times with regard to their needs and any effect the disability might have on their future employment

1.3 Reasonable adjustment

Legislation requires Poole Housing Partnership Limited to carry out what are termed “Reasonable Adjustments” this means we will consider making reasonable changes to the physical features of the premises/working environment and /or any work arrangements it makes, or which are made on its behalf, either during recruitment or employment, which cause a disabled person a substantial disadvantage when compared to another person.

Poole Housing Partnership Limited management will do all they can to comply with this duty and, where possible will discuss any such arrangements with the disabled person to ensure their needs are met.

1.4 Recruitment

Personnel management will periodically review procedures and practices to ensure no discrimination exists against disabled people.

Management will ensure that its selection criteria, including qualifications are relevant and significant in terms of the job specification and it will select candidates for interview having taken into account any “reasonable adjustment” for applicants known to have a disability.

Management will periodically review interview practices to ensure any “reasonable adjustment” is made as soon as a candidate's disability becomes apparent. During the interview process Poole Housing Partnership Limited will only seek information about a candidate's disability if it is, or may be relevant to the person's ability to do the job – after a reasonable adjustment, if necessary.

1.5 Induction training

Poole Housing Partnership Limited will ensure that the induction training procedure for an employee who has a disability takes account of any specific needs they may have, and where it proves necessary the procedure can be adapted to suit the individual.

Periodically the terms and conditions of employment offered to all employees are reviewed to ensure there is no discrimination against any disabled employees.

1.6 Disclosure of information about a disabled employee

Where it is necessary to disclose information about a disabled employee to another employee / other third party in order to implement a “reasonable adjustment”, this will only be carried out where absolutely necessary and then only with the disabled employees prior consent. Information disclosed will be the minimum necessary.

2.0 OVERVIEW OF THE LEGISLATION

(Main points only are listed)

2.1 Discrimination by Employers

- It is unlawful for an employer to discriminate against a disabled person in the arrangements that he makes for determining to whom he should offer employment, in the terms of employment and by refusing or deliberately not offering employment.
- For those in employment it is also unlawful for an employer to discriminate against a disabled person in his employ with regard to the terms of employment offered, in the various opportunities or benefits offered, or by refusing or deliberately not affording him those opportunities or benefits.
- Where any arrangements made or any physical feature of the premises occupied by the employer place the disabled person concerned at a considerable disadvantage in comparison with persons who are not disabled, it is the duty of the employer to take such steps as is reasonable in the circumstances to prevent the physical feature having that effect.

2.2 Discrimination by Other Parties

It is unlawful for a principle, in relation to contract work:

- to discriminate against a disabled person in the terms on which he allows him to do that work, by not allowing him to do it or continue to do it
- in the way he affords him access to any benefits or
- by refusing or deliberately omitting to afford him access to them; or by subjecting him to any other detriment.

It is unlawful for a trade organisation:

- to discriminate against a disabled person in the terms on which it is prepared to admit him to membership of the organisation;
- by refusing to accept, or deliberately not accepting, his application for membership.

It is unlawful for a trade organisation:

- in the case of a disabled person who is a member of the organisation, to discriminate against him in the way it affords him access to any benefits
- by refusing or deliberately omitting to afford him access to them, by depriving him of membership, or varying the terms on which he is a member; or
- by subjecting him to any other detriment.
- where any arrangements made or any physical feature of the premises occupied by the organisation place the disabled person concerned at a considerable disadvantage in comparison with persons who are not disabled, it is the duty of the organisation to take such steps as is reasonable in the circumstances to prevent the physical feature having that effect.

2.3 Premises occupied under leases

Legislation also applies where the employer or trade organisation (the occupier) occupies premises under a lease and where, but for this section, the occupier would not be entitled to make a particular alteration to the property to remedy any physical feature of the property, that would substantially disadvantage a disabled person.

Except to the extent to which it expressly provides, the lease shall have effect as if it provided:

- for the occupier to be entitled to make the alteration with the written consent of the lessor.
- for the occupier to have to make a written application to the lessor for consent if he wishes to make the alteration.
- If such an application is made for the lessor not to withhold his consent unreasonably; and
- For the lessor to be entitled to make his consent subject to reasonable conditions.

If the terms and conditions of a lease:

- Impose conditions which are to apply if the occupier alters the premises or
- Entitle the lessor to impose conditions when consenting to the occupier's altering the premises

The occupier is to be treated for the purpose of the legislation as not being entitled to make the alteration.

If any question arises as to whether the occupier has failed to comply with his duties under the legislation by failing to make a particular alteration to the premises, any constraint attributable to the fact that he occupies the premises under a lease is to be ignored unless he has applied to the lessor in writing for consent to make the alteration.

2.4 Discrimination by Service Providers

It is unlawful for a provider of services to discriminate against a disabled person:

- In refusing to provide, or deliberately not providing, to the disabled person any service which he provides, or is prepared to provide, to members of the public.
- In failing to comply with any duty imposed on him with regard to his arrangements or any physical feature in his premises in circumstances in which the effect of that failure is to make it impossible or unreasonably difficult for the disabled person to make use of any such service.
- In the standard of service which he provides to the disabled person or the manner in which he provides it to him; or
- In the terms in which he provides a service to the disabled.

Where a provider of services has a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of a service which he provides, or is prepared to provide, to other members of the public, it is his duty to take such steps as it is reasonable, in all circumstances of the case, for him to have to take in order to change that practice, policy or procedure so that it no longer has effect.

Where a physical feature (for example one arising from the design or construction of a building or the approach or access to premises) makes it impossible or unreasonably difficult for disabled persons to make use of such a service, it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to:

- Remove the feature.
- Alter it so that it no longer has that effect.
- Provide a reasonable means of avoiding the feature.
- Provide a reasonable alternative method of making the service in question available to disabled persons.

2.5 Owners of Premises

It is unlawful for a person with power to dispose of any premises to discriminate against a disabled person:

- In the terms on which he offers to dispose of those premises to the disabled person.
- By refusing to dispose of those premises to the disabled person; or
- In his treatment of the disabled person in relation to any list of persons in need of premises of that description.

2.6 Managers of Premises

It is unlawful for any person managing any premises to discriminate against a disabled person occupying those premises:

- In the way he permits the disabled person to make use of any benefits or facilities.
- By refusing or deliberately omitting to permit the disabled person to make use of any of benefits or facilities; or
- By evicting the disabled person, or subjecting him to any other detriment.

It is unlawful for any person whose licence or consent is required for the disposal of any premises comprised in, or (in Scotland) the subject of, a tenancy to discriminate against a disabled person by withholding his licence or consent for the disposal of the premises to the disabled person

Since December 1996, it has been unlawful for the providers of services to refuse to serve a disabled person, offer a lower standard of service or provide a service but on less favourable terms to a disabled person for reasons associated with their disability.

Since October 1999 service providers have had to make reasonable adjustments for disabled persons in the way they provide their services.

Since October 2004, service providers may have to make reasonable adjustments in relation to the physical features of their premises to overcome physical barriers to access.