

# Re-defining Disability in the Workplace

# What do you think Disability is?

Most of us refer to disability as an individual that uses a wheel chair or is blind or deaf or has some kind of visible evidence that we can see and define.

But disability is also:

Dyslexia, Arthritis, Asthma, Back Pain, Neck Pain, Heart Attack, Stroke, Stress, Fibromyalgia, ADHD, Autism, Diabetes, IBS, Cancer, Fatigue, Memory Loss, Mental Health (Anxiety & Depression), Multiple Sclerosis....the list is endless because a disability is something that can be acquired during our lifetime not necessarily something we're born with.

# What is the legal definition of Disability?

Disability has a broad meaning. The Equality Act 2010 defines disability as a physical or mental impairment that has a substantial and long-term adverse effect on the ability to perform day-to-day activities. (Government Equalities Office, 2011).

- A long-term effect is one which has lasted, or is expected to last, at least 12 months or the rest of the person's life (if shorter).
- 'Substantial' means more than minor or trivial.
- 'Impairment' covers, for example, long-term medical conditions such as asthma and diabetes, and fluctuating or progressive conditions such as rheumatoid arthritis or motor neuron disease. (Government Equalities Office, 2011)

## What is Disability? (Continued)

Treatment and aids which alleviate or remove the effect of the impairment do not mean a person is not disabled. (The Business Disability Forum, 2015).

A mental impairment includes mental health conditions (such as bipolar disorder or depression), specific learning difficulties (SPLD) such as dyslexia and learning disabilities (such as autism and Down's syndrome).

People with severe disfigurements are also deemed to be disabled by the Act, as are people who are registered as blind or partially sighted with their local authority or an ophthalmologist. People who have had a disability in the past are also protected by the Act. (The Business Disability Forum, 2015)

## Is the condition visible or is it non-visible?

Conditions are either a “visible” disability or a “non-visible” disability. The term “hidden” is also used interchangeably when referring to non-visible disabilities. Hidden or non-visible disabilities can cover very large spectrum of different conditions and illness. The term is also used, unofficially, to cover things like chronic pain, fibromyalgia, diabetes, cognitive and learning issues, fragrance or chemical sensitivities, chronic fatigue syndrome, and even visual and auditory impairments.

(Briggs, Hovey, Tyson, & Macdonald, 2010)

## Am I Disabled?

A key difficulty when surveying for statistical purposes is that when asked the question of being disabled, the individual may not even recognise themselves as having an impairment that would fit with the legal definition of a disability.

Depression, anxiety, asthma and cancer are all examples of conditions that may not be seen as, or reported as, a disability but would fall within the legal definition as defined by the Equality Act 2010.

The wide span of disability can be surprising to employers and non-disclosure can present challenges to managers. A statistic of which employers may not be aware, is only 17% of disabled people were born with their disabilities. The majority of disabled people acquire their disability in later life.

(Department for Work and Pensions, 2014).

# Employer obligations

The extent to which employers understand their legal obligations also varies dependent on the condition and necessary support. Managers were more likely to comprehend physical adaptations to buildings or the provision of equipment, than adjustments to 'work itself' that might involve variations to employment conditions. (Foster, 2007).

Physical health problems significantly increase the risk of poor mental health, and vice versa. Around 30% of all people with a long-term health condition also have mental ill health, most commonly depression and anxiety. (Halliwell, Malin, & Richardson, 2007)

# The Equality Act 2010 & Reasonable (Workplace) Adjustments

The duty to make reasonable adjustments applies to all aspects of employment, including recruitment and selection, training, transfer, career development and retention. A point of note is that treating the workforce fairly does not mean treating everyone the same. (The Business Disability Forum, 2015).

The Equality Act requires people to be treated differently according to their needs by making reasonable adjustments specific to the individual's challenges and impairment.

An employer must make reasonable adjustments when it could reasonably be expected to know that an applicant or an employee is at a substantial disadvantage in the workplace because of a disability. (Government Equalities Office, 2011) The positive duty on employers to make 'reasonable' workplace adjustments for disabled employees was introduced in the UK Disability Discrimination Act (DDA) 1995 (now the Equality Act 2010).

# Recommendation of Non-physical Adjustments

Solutions recommended by case managers during initial contact may be either physical or non-physical. Non-physical adjustments are changes to working practices or the management of employees.

## Absence – don't mismanage disability related absence

Absence levels are one of the most easily quantifiable and measurable ways of proving cost vs. benefit, recognised at executive levels. The level of absence is rarely recorded accurately within organisations as disability specific.

The prevalence of disability and cost of absence indicate that employers should be aware of the benefits and also their responsibility, the reputational and legal risks of mismanaging disability within the workplace.

## Has your company productivity decreased due to absences?

Measuring productivity is a difficult challenge, this is perhaps due to the generic performance expectations, which organisations must apply in order to measure the workforce as a whole. Lowering of targets as an adjustment can potentially cause the individual to be negatively perceived by team members but there is evidence of employees working harder in order to negate the perception of un-productivity.

Concerns around negative feedback from colleagues and team members may be lessened by a more open attitude towards disclosure and compassionate understanding.

The solution is to manage disability in the workplace efficiently and effectively. With online access to a referral system for all employees where cases are then managed by disability and health condition experts. Prevention is a key deterrent in managing and pre-empting conditions acquired at work.

Re-defining Disability in the Workplace with expert knowledge, a robust end to end service and in-depth data capture that gives organisations visibility in an area previously not monitored.