

What is Disfigurement?

People with severe disfigurements may experience little or no difficulty carrying out the tasks required in the workplace because of the way they look. However they may still experience discrimination in the same way as people with other disabilities.

Over 400,000 people in the UK have disfigurements to their hands, face and body¹. Living with a disfigurement can be a major challenge for an individual and their family. People who have disfigurements may feel a great deal of anxiety in social situations, which can result in low self-esteem, anxiety and reduced confidence. This may have a particular impact on a candidate's confidence in applying for a job and throughout the interview process.

While living with disfigurement can be challenging, it need not prevent people from leading full and active lives and possessing qualifications, skills and life experience invaluable to many organisations.

Suggestions on reasonable adjustments for people with disfigurements

Induction and environment

Induction is an important part of how any individual is welcomed to their new role, colleagues and organisation. An employee with a severe disfigurement may in particular feel anxious about how their new colleagues or external visitors will react to the way that they look.

People with severe disfigurements are deemed to be disabled under the Equality Act. In order to fulfil your legal obligations to make reasonable adjustments for an employee who has a severe disfigurement, you should discuss with the employee their needs and wishes. Many employees are extremely proactive in managing their own condition and may require few if any adjustments to be made.

¹ www.changingfaces.org.uk

Communications

Effective communication with colleagues, service users and customers is vital in any business. Many people with disfigurements can, however lack confidence when interacting with other people face to face and may be anxious about such interactions at work.

Adjustments that might be needed include:

- Disability awareness training for colleagues
- Training for the individual to build their confidence and teach them how to deal with other people's reactions
- Trying to limit the number or extent of uncomfortable situations if that is something that the individual needs perhaps in the short term

Workplace behaviour

Be aware that anxiety and low self-esteem can be misinterpreted as the individual being withdrawn, sullen or poor team players by managers. Managers may need training on disability and disfigurement too and on how to bring out the best from all their staff by making reasonable adjustments for them.

Harassment and bullying

Managers may also need to monitor the behaviour of colleagues towards an individual with a disfigurement. Every employee should understand that any form of bullying or harassment including 'jokes' about someone's appearance will not be tolerated and could lead to disciplinary action. Disabled employees must feel that the workplace is a safe environment where they are respected for the contribution they make to the organisation.

Social situations

People with severe disfigurements may feel particularly anxious in work related social situations such as Christmas parties with the wider team, client parties or even after work drinks.

In some cases some such apparently social situations will be part of the job. Line manager should talk about how employees are expected to behave in such situations and ask if anyone feels particularly uncomfortable in social settings. Adjustments that might benefit everyone including someone with a severe disfigurement might include.

- Training on effective networking
- A mentor or buddy to shadow, watch and learn from

Line managers should also ensure that someone with a disfigurement is not being left out of non essential work related social situations. They may need to arrange (after discussion with the individual)

- Disability awareness training for colleagues in order to ensure that the individual is treated as part of the team. Colleagues may be unconsciously excluding the individual because they perceive them to be different or they might be assuming that the person doesn't want to join in
- Making sure that the individual is told about and specifically invited to any social events

Managing absences

Many people with disfigurements do not need on-going treatment. However, some may require time off for treatment either on a 'one off' basis or from time to time.

In these cases you may need to make reasonable adjustments such as:

- Allowing time off if an employee needs to attend medical appointments (e.g. GP or consultant) during working hours. It is best practice to allow paid time off if your organisation can afford it.
- changing the regular hours of work²; if the appointments are needed over a long period of time, and/or the financial viability of the organisation is affected so that the person can attend appointments out of working hours

Remember to tell employees of any private healthcare provision they may be entitled to access especially those offering therapeutic assessments and support or counselling

² Further information on disability leave is available in the Employers' Forum on Disability briefing paper "A practical guide to managing sickness absence".

Legal position

Disability discrimination under the Equality Act 2010

Direct discrimination

It is unlawful for an employer to treat a disabled job applicant, or employee, unfavourably, simply because of their disability. This type of discrimination is known as direct discrimination. It is unlawful and cannot be justified.

Discrimination arising from disability

The Equality Act replaced disability-related discrimination in the Disability Discrimination Act with discrimination arising from disability which occurs when

- An employer knows or could reasonably be expected to know that the person is disabled.
- The disabled person experiences unfavourable treatment which arises as a consequence of their disability

There is no requirement for a comparator i.e. the disabled person does not have to show that they have been treated or would have been treated less favourably than someone else.

An employer can justify detrimental treatment arising out of a disability if they can show that it is a proportionate means of achieving a legitimate aim.

Indirect discrimination

The Equality Act has introduced the new concept of indirect disability discrimination.

Indirect discrimination occurs when a seemingly neutral provision, criterion or practice that applies to everyone places a group who share a characteristic e.g. a severe disfigurement at a particular disadvantage.

Indirect discrimination may be justified if it can be shown that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

Reasonable adjustments

An employer has a duty under the Equality Act to make reasonable adjustments (which includes providing auxiliary aids such as a support worker or information in alternative formats) to prevent a disabled employee from

being placed at a substantial disadvantage by any physical feature of the premises, or by any provision, criteria or practice of the employer.

The duty applies to all aspects of employment, including recruitment and selection, training, transfer, career development and retention and redundancy. Failure to make a reasonable adjustment to a policy procedure or practice, or to a physical feature of the workplace where this is placing a disabled person at a substantial disadvantage, is unlawful and cannot be justified.

When deciding whether or not an adjustment is reasonable an employer should consider the:

- Effectiveness of the adjustment in preventing the disadvantage.
- Practicality of the adjustment.
- Financial and other costs of the adjustment if any and the extent of any disruption caused.
- Extent of the employer's financial or other resources.
- Availability to the employer of financial or other assistance to help make an adjustment, for example through the Access to Work scheme and the support of Jobcentre Plus.

Equality Duty

Public authorities and those carrying out public functions are required by the Equality Act to promote equality of opportunity for disabled people.

This includes ensuring that third parties, such as recruitment agencies who provide services to the authority, do not discriminate against disabled people and that they positively encourage disabled candidates to apply for jobs within the authority. The duty also means that authorities need to think in advance about the needs of both disabled employees and potential disabled employees. Authorities should bear this in mind when reading this briefing.

As well as the Equality Act, there is also a ³statutory² Code of Practice on Employment and Occupation. ³Statutory² means that it is produced under the legislation, it is admissible as evidence and must be taken into account by courts and tribunals where relevant. References are made in this briefing to the Code.

Access to Work Scheme

Access to Work is a Government run scheme that offers financial support for reasonable adjustments, such as a Support Worker. For more information contact an Access to Work Adviser who will tell you more about the scheme

and how it could help you. Contact details of the Access to Work business centre nearest to you can be found through Jobcentre Plus.
(www.jobcentreplus.gov.uk)

For more information contact:

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