

Factsheet for employers on Multiple Sclerosis (MS)



What is Multiple Sclerosis?

Multiple Sclerosis (MS) is a chronic, fluctuating illness. MS is the result of damage to the myelin sheath that protects the nerve fibres of the central nervous system. This damage interrupts some of the messages that are sent between the brain and other parts of the body.

It is estimated that there are around 85,000 people with MS in the UK¹. The ratio of diagnosis for women to men is 3:2². It tends to affect young adults; the average age of onset is 29-33 although people between 10-59 years can develop the disease.

MS is a progressive and fluctuating and so the issues around employment can be complex, and the requirement for adjustments will need to be monitored and reviewed overtime. Some symptoms may disappear whilst new symptoms may appear over time. Some people will have long periods with no apparent symptoms, but will then experience intermittent relapses, for others it can follow a progressive pattern.

Suggestions on reasonable adjustments

Induction and environment

Induction is an important part of how any individual is welcomed to their new role, colleagues and organisation. MS affects people in different ways. There are many possible symptoms and it is common for symptoms to change and fluctuate during the course of the illness.

In order to fulfil your legal obligations to make reasonable adjustments 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.

¹ MS Society, http://www.mssociety.org.uk/about_ms/index.html

² MS International Federation, http://www.msif.org/en/ms_the_disease/quick_facts.html

Adjustments that might be needed include:

- Providing adjustments to the premises where they may be inaccessible to an employee with MS or other employees with reduced mobility e.g. providing an accessible car parking space, installing an accessible toilet or a lift;
- Identifying if the employee may require assistance in the event of an emergency - if so, design a personal emergency egress plan (PEEP);
- Conducting a workstation ergonomics assessment to identify changes needed to reduce the need for bending e.g. seating arrangements, weight of doors, height of work equipment, height and position of shelves and switches;
- Providing equipment to help the employee with symptoms that may affect motor co-ordination and grip e.g. hands-free telephone, voice recognition software;
- Providing equipment for an employee who has developed reduced vision e.g. screen amplifiers and documents in alternative formats;
- Providing equipment to help an employee experiencing memory difficulties e.g. colour coding, an electronic calendar or a Dictaphone;
- Monitor the effect of heat, ensuring that the employee is located away from direct sources of heat and has access to equipment to enable cooling (e.g. air conditioning, portable fan) if needed.

Communication

Adjustments that might be needed include:

- Create a culture where employees feel it is safe to disclose a disability. Disabled employees need to know that they will be treated fairly and that your response will be to ask them how you can help them to do their job by making reasonable adjustments;
- Provide formal and informal support systems such as employee welfare schemes or disability networks and encourage employees to take advantage of them;

- Be positive. Involve the employee in discussions about the reasonable adjustments that they might need as they will know about how the MS affects them;
- Be aware that an employee may be finding it difficult to deal with a new diagnosis of MS and may experience depression and anxiety as a result.

Workplace behaviour

MS affects people in different ways. There are many possible symptoms and each individual will have a different combination of symptoms. People with MS may experience problems with balance, co-ordination, fatigue or concentration.

Adjustments that might be needed include:

- Fixing handrails or keeping passageways uncluttered;
- Allow employees with MS to take regular breaks;
- Locate the employee close to facilities that they may need access to (e.g. toilet, kitchen).

Managing absences

Making reasonable adjustments can help to improve attendance by addressing the causes of absence and also to ensure disabled people are not unjustifiably discriminated against for a reason related to their disability in the attendance management process.

Adjustments that might be needed include:

- Allow time off to attend appointments for assessment, treatment or rehabilitation;
- Ensure that you have a scheme in place that distinguishes between sickness absence taken for a reason relating to a disability and general sickness absence³. Ensure that adjustments are made in processes to

³ Further information on disability leave is available in our briefing paper “A practical guide to managing sickness absence”.

manage attendance and sickness absence so that disabled employees are not treated less favourably for a reason relating to their disability;

- Consider requests from employees who would like to work flexible hours for example to avoid the rush hour and requests to work from home on days when their symptoms are particularly severe;
- If possible, put in place provision for short notice cover for employees known to have fluctuating conditions such as MS;
- Be understanding. The employee will be much more likely to try to work come into work if s/he knows that s/he can take a break or go home if necessary;
- If it is not possible to keep the employee in their current role, consider redeployment as a reasonable adjustment.

Working as part of a team

Adjustments that might be needed include:

- Take a proactive approach to managing stress within your organisation: ensure that workloads and deadlines are reasonable, set your employees clear objectives and ensure they have the resources that they need to be able to perform effectively;
- Provide disability awareness training for all staff and additional training for line managers so that they are confident and effective in managing disabled employees and making reasonable adjustments;
- Make changes to the work environment to help with concentration or memory difficulties e.g. room dividers, other soundproofing or visual barriers.

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, less favourably, 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 disability 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. Examples of reasonable adjustments for people with dyslexia are given throughout this briefing.

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 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 disabled people financial support for reasonable adjustments in the workplace, such as adaptations to premises or purchase of equipment. 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.go.uk

For more information contact:

MS Society

MS National Centre

372 Edgware Road

London NW2 6ND

Tel: 020 8438 0700

Website: www.mssociety.org.uk

Or

Business Disability Forum

Nutmeg House | 60 Gainsford Street | London | SE1 2NY

Tel: +44-20-7403-3020 | **Textphone:** +44-20-7403-0040

Email: advice@businessdisabilityforum.org.uk

Web: <http://businessdisabilityforum.org.uk>

This publication and the information contained therein are subject to copyright and remain the property of Business Disability Forum. They are for reference only and must not be reproduced, copied or distributed as a whole or in part without prior permission, apart from internal distribution within the original recipient's organisation.

The information provided in this publication is for guidance only and Business Disability Forum accepts no liability for any actions, or consequences of actions, arising from this information.

Business Disability Forum is committed to ensuring that all its products and services are as accessible as possible to everyone, including disabled people. If you wish to discuss anything with regard to accessibility, please contact us as set-out above.