

REASONABLE ADJUSTMENT GUIDANCE

Supporting employees living with a disability

A Managers Guide



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1.Introduction

Carmarthenshire County Council is committed to removing structural, organisational, physical and attitude barriers that disabled people may face.

This guidance is designed to advise any Carmarthenshire County Council manager who is responsible for implementing a workplace reasonable adjustment or support a disabled employee.

The guidance provides general advice on reasonable adjustments.

There are over 7 million people of working age in the UK living with a disability. However, not every disability is obvious or visible; in fact, 70% of people have a disability which is not visible. It is important as a manager therefore to not make assumptions when managing performance of your employees.

As a manager you are responsible for creating an open and supportive environment in which all the employees you manage meet their objectives and performance targets whilst enabling them to achieve their full potential in their role.

This includes disabled employees who may sometimes need you to make changes or “reasonable adjustments” to enable them to do so.

Whilst this guidance is primarily aimed at supporting employees living with a disability, the principles of this guidance can apply to all employees where reasonable adjustments may be appropriate.

2.What does the term “disability” mean and who is included?

The term “disability” applies to a range of people with different impairments. It is not just visible physical conditions that are included, conditions such as anxiety or depression are also included in the definition.

As a manager you also need to be aware that under the law the term disability is so broad that people you might not think of as disabled are included, for example, people with diabetes, asthma, back problems, facial disfigurements and mental health conditions such obsessive-compulsive disorder.

Managing an employee with mental ill health is the same as managing an employee with a physical illness. Your duty as a manager would be to try and put adjustments in place to help them through their ill health and stay in work/or return to work.

Employees diagnosed with cancer, Multiple sclerosis (MS) and HIV are automatically included from the point of diagnosis. Alcoholism/ substance addiction are not included in the definition although it may subsequently impact on physical and mental health and that may mean that an employee is defined as disabled.

It is not possible to provide a comprehensive list of all the impairments that might lead a person considering themselves to be disabled. This is because the legal definition is broad and not always easy to apply.

3.What is my role as a manager?

It is your responsibility as the manager to ensure that the reasonable adjustment is put in place. As a flexible employer we need to ensure that we enable employees who are living with a disability to fulfil their potential as far as is reasonably practicable. As a Manager you can agree adjustments in the short term so that the employee can carry out their work effectively and perform to a high standard. This could include for example, starting later to avoid traffic.

Sometimes the adjustment may be less straightforward, or you may need further advice in determining reasonable adjustments. In those circumstances you can seek support from HR, Occupational Health and Access to work, as appropriate.

4.The Law

The legal definition of a disability under the Equality Act 2010 is “a physical or mental impairment which has a substantial and long-term adverse effect on your ability to carry out normal day-to-day activities”.

The Equality Act 2010 does not prevent you as a manager from asking for information about an employee’s health or impairment. However, this information must not be used to discriminate. Understanding the negative effects of an impairment may also help you to explore with the employee if adjustments need to be made and what these could be. You must ensure there is positive communication between the employee in your team and yourself, whilst being sensitive and maintaining confidentiality always.

Reasonable adjustments need to be made in the following circumstances:

- Where someone has declared or told us that they have a disability, illness or injury and requested reasonable adjustments
- Where it might be reasonably expected that someone would need an adjustment
- Where it might be reasonably expected that someone is disabled
- Where making a reasonable adjustment would enable the employee to do their job more effectively, regardless of whether they are covered under the legislation.

4.1 Finding out if someone has a disability

You only have to make these changes where you know or could reasonably be expected to know that an employee has a disability and is likely to be at a substantial disadvantage as a result. This means doing everything reasonable to find out. This does not however mean asking intrusive questions or ones that violate someone’s dignity. Think about privacy and confidentiality in what you ask and how you ask.

Example

An employee’s performance has recently deteriorated, and they have started being late for work. Previously they have had a very good record of punctuality and performance. Rather than just telling them they must improve; their manager talks to them in private. This allows the manager to ask whether the change in performance

could be for a disability related reason. The employee says that they are experiencing a recurrence of depression and are not sleeping well which is making them late.

Together, the manager and the employee agree to change the hours of work slightly while they are in this situation and that the employee can ask for help whenever they are finding it difficult to start or complete a task. This is a reasonable adjustment.

4.2 When should we be making reasonable adjustments?

Reasonable adjustments should be made whenever necessary. This may include:

- **Recruitment and selection:** this may apply to the way in which the application is completed, interview or test conducted, or any other criteria applied. Please see Appendix 1 for further details
- **On starting employment:** if a new employee is starting within your team you may need to make reasonable adjustments.
- **At any point during employment with us**
- **When undertaking learning and development**
- **On a change of role or transfer or working environment or conditions**

Before considering/making a reasonable adjustment there are many important issues that need to be taken into consideration. As the manager please ensure that you complete the Reasonable Adjustment Action Plan with the employee (Appendix 2).

4.3 Is there a format for the discussion with the employee I can use?

Please refer to [Appendix 2 – Action Plan](#)

5. Who might provide support in arranging reasonable adjustments?

- HR Advisors – HR Advice is important as some of the changes you may need to consider may affect individual's employment contract;
- Occupational health – in some circumstances occupational health may be able to provide advice on the adjustments that will enable an employee to operate effectively in their role;
- Access to Work – A programme run by the Department of Work and Pensions that provides support to disabled people to help them overcome work-related obstacles arising from their disability, if this is likely to last for 12 months or longer. Please refer to Appendix 3 for further details
- Other agencies – Please see appendix 3 for a list of specialist agencies and organisations. There are likely to be others that may be able to provide more specialist advice and assistance. For example, Dyslexia Action can provide assessments for dyslexia and assistance with specific adjustments that may be required.

5.1 Funding for reasonable adjustments

It is important to remember that as a manager, once it has been decided that an adjustment is reasonable. You have a legal duty to ensure that this is put in place. It is worth noting that most adjustments cost nothing or very little.

Where adjustments are expensive, funding may be available through Access to Work (referred to above).

Please note that as a manager you may contact [Access to Work](#) for advice, but the onus is on the employee to contact Access to Work for an assessment.

An assessor will usually visit the employee and manager in the workplace to carry out an assessment of their needs. They will also advise of the funding that can be provided. Access to Work grants apply to any job whether full time, part time, and permanent or temporary.

6. What is reasonable?

It can be difficult to assess whether an adjustment is reasonable, and a number of factors should be considered.

How much does a reasonable adjustment cost?

It is worth noting that most adjustments cost very little or nothing and are often a matter of flexibility or changing an approach to a working practice.

Where there is a cost involved in making the reasonable adjustment and you feel the cost could be prohibitive, you will need to consider:

1. How expensive the adjustment is in relation to Carmarthenshire County Council as a whole. As a large organisation it might be difficult for us to defend the failure to make a reasonable adjustment on cost alone. Advice should be taken from HR in conjunction with your Head of Service if a reasonable adjustment appears too costly. Remember that in many cases grants can be reclaimed from Access to Work.
2. Will the adjustment benefit other people as well as the disabled employee? For example, clearer signage, better lighting and automatic doors may require an initial monetary investment but they would benefit many people.

How effective is the proposed reasonable adjustment?

A reasonable adjustment may only be considered reasonable if it reduces the disadvantage that the employee is facing. You must always ask the employee what they think would help them do the job but remember that people living with a disability are not always the experts on all the support available to them. OH, may be able to advise further where required.

How practical is it to make the adjustment?

Adjustments will only be reasonable if they are practical to make.

In some cases, the type of adjustment required may not be practical because of other circumstances e.g. if some structural work is required to a listed building then this may not always be possible, although each case needs to be considered individually.

In some cases, you may need to consider different types of work by mutual agreement and this may be a reasonable adjustment.

How much disruption will it cause?

The amount of disruption that an adjustment would cause to service delivery will affect whether an adjustment is considered reasonable. Whilst most adjustments cause no disruption at all and only affect the way in which an individual works there may be cases where a proposed reasonable adjustment causes too much disruption to service delivery, in which case alternative adjustments will need to be considered.

How does it affect other people in the team?

It is your role as a manager to make it clear that equality does not mean treating everybody the same; in fact, to treat people fairly we must treat them differently according to their needs.

Other team members including other managers/senior manager should only be told about a person's disability or any health condition with the explicit consent of the employee.

They will need to be informed of any reasonable adjustment that is made if this has an effect on them and their working environment

If a disabled person feels valued and comfortable in the environment where they work, they are more likely to disclose their disability to you as their manager and to colleagues.

Does it pose a health and safety hazard?

It is important to consider whether a reasonable adjustment puts the disabled employee and others at risk.

If an adjustment poses an unacceptable risk to the health and safety of either the disabled employee or any other employees, then it will never be reasonable. However, before a decision is made to refuse an adjustment on health and safety grounds you must ensure that you have all the facts and are not basing the refusal on assumptions. This means conducting a thorough risk assessment and seeking advice from a H&S Advisor.

[Examples of reasonable adjustments](#)

7.What if someone hasn't declared a disability that you suspect exists?

As a manager you need to be aware that an employee may not tell you that they are living with a disability because:

- They don't think of themselves as living with a disability
- They don't think they need reasonable adjustments
- They are worried about the perceived reaction of the organisation
- They fear the perception of harassment, bullying or resentment from colleagues

As a manager you must be alert to any signs that may be disability related such as:

- Their attendance has deteriorated
- Their performance at work has deteriorated
- Their behaviour at work has changed and they have become angry, withdrawn, tearful, forgetful or aggressive
- Their timekeeping has deteriorated
- They appear to be in pain
- They are absent from work on medical grounds

If any member of your team is experiencing any of these concerns, you should always consider the possibility that it may be disability related. However, do not make assumptions as all the above could be caused by other concerns or circumstances.

Rather than trying to determine whether an employee meets the definition of a disability, talk to them to try and find out what would help. Then try to introduce any adjustments you reasonably can to help them do their job either in the short or long term.

Having a good understanding of the way in which individuals in your team generally perform and behave will mean that you're more likely to be able to identify any changes in them. In which case you should be able to have a conversation about what adjustments you may be able to make. Please refer to Appendix 4 for top tips on supporting the employee.

8.Ensuring Equality of Treatment

All employees are required to adopt a positive, open and fair approach and ensure the Authority's Equality and Diversity Policy is adhered to and applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, disability, religion and belief or non-belief, age, sex, gender reassignment, gender identity and gender expression, sexual orientation, pregnancy or maternity, marital or civil partnership status.

In addition, the Welsh Language Standards ask us to 'ensure that the Welsh language is treated no less favorably than the English language' and this principle should be adopted in the application of this Guidance.

If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly.

If you require this publication in an alternative format please contact People Management on Ext 6184 or email PMBusinessSupportUnit@carmarthenshire.gov.uk

APPENDIX 1 - Recruitment and Selection

The standards a disabled candidate and recruiting manager can expect from the Recruitment & HR Team

The Recruitment Team will respond promptly to requests for an application form in alternative formats.

Evidence of ability against the specified criteria will also be accepted in alternative formats, such as:

- audio recording
- a separate typed sheet
- application form completed on behalf of the applicant (advocate)
- written statements from staff in supported employment projects who have observed the applicant and can comment on their ability to meet the criteria of the Person Specification

The Recruitment Team will monitor applications from disabled candidates who would like their application considered in accordance with the disability confident scheme, to ensure that if they meet the essential criteria for the post (as detailed on the person specification) that they have been guaranteed an interview in line with the Authority's commitment under the Disability Confident Scheme.

The Recruitment Team will also write to all candidates invited to interview asking if there are any access requirements or reasonable adjustments that need to be accommodated as part of the recruitment process and ensure the recruiting manager is informed promptly.

In addition, the Recruitment Team will ensure the recruiting manager has a named HR Advisor to advise them on implementing the reasonable adjustments for the selection process and prior to the candidate's first day of employment. This may require assistance from the Occupational Health Unit and external organisations as appropriate.

The recruiting manager's responsibilities

This section outlines the key considerations and responsibilities as a recruiting manager when you receive an application from a disabled candidate:

- **Person specification** - When developing the person specification you should carefully consider what qualities are necessary to carry out the job and the use of short-listing criteria that relates to an applicant's health and/or physical fitness should not be used, e.g. Replace "must be able to touch type at 80wpm" with "must be able to produce accurate reports using Microsoft office or replace "must be able to drive and have a clean current driving license" with "must have the ability to travel".
- **Advertisements** - when a vacancy is advertised, consideration must be given to the functions of the job. Therefore, the advert should be developed using the information contained within the job specification and the "essential requirements" in the person specification.
- **Short-listing** - you should always ensure it is clear at all stages of the recruitment process what the minimum criteria for selection for interview are, i.e. the essential criteria on the person specification.
- **Guaranteed Interview** - The Council has signed up to the commitments of the Disability Confident Scheme which includes guaranteeing an interview to any disabled candidate who meets the essential criteria for a job. This includes any tests or assessments as part of the recruitment process. You must ensure that any reasonable adjustments are made during the assessment process so disabled applicants are not disadvantaged.
- **Interview arrangements** - you should always hold interviews in a fully accessible venue. All candidates will be asked, when invited to interview or other assessments, whether they have any requirements for the interview, e.g. a candidate may ask if the interview can be scheduled at a time which means that they do not have to travel at rush hour. This is also the prompt for a disabled applicant to let you know if they have any access requirements or adjustments as part of the selection process, e.g. an English/British Sign Language interpreter, specialist equipment or a blue badge reserved parking space. It is good practice for recruiting managers to also telephone and email disabled candidates to ask if they have an access/adjustment requirement. If the disabled candidate specifies an access requirement or adjustment, then this must be accommodated.
- **Interview questions** – ensure you frame your questions to draw out each candidate's ability, skill and knowledge so you can assess and score against the person specification. There are certain interview do's and don'ts, e.g.

Don't ask:

"How will the pressure of tight deadlines affect your disability" or

"What tasks can't you do in the job profile because of your disability" or

"What happened to you and how did you get your disability".

Don't ask at the assessment stage whether there are any reasonable adjustments that need to be considered. This can be done at the offer stage to avoid the accusation of bias is the employee with a disability is subsequently not offered the job.

Do ask

“This job involves working to tight deadlines. Tell us about situations where you’ve been given a tight deadline to meet and how you ensured you met this”
or

“How will you perform the duties outlined in the job-profile?”

- **Selection** - your assessment should be based on the applicant's ability or potential to carry out a task. A disabled applicant should be assessed as if the adjustment required to do the job has already been made.
- **Successful applicants** – Speak to the successful candidate following the offer of employment and ask whether there are any adjustments that you need to consider to support the applicant to undertake the role successfully.
- **Unsuccessful applicants** - All unsuccessful applicants must be offered the opportunity for feedback about why. This should be given positively, with the aim of assisting the individual with their continued job search.
- **Induction Period** - If the disabled applicant is successful, prior to joining the team, you should ensure that any agreed adjustments have been made, e.g. equipment has been purchased, etc. Use the template at **Appendix 2** as a tool for discussion before a disabled applicant starts work.

Make sure you tell the employee what reasonable adjustments you have already made and what equipment or adjustments you may be waiting to be implemented.

Also check that all induction processes are accessible.

Once the applicant has commenced employment ask the new employee to keep a note of how any reasonable adjustments made are working and of any improvements that may be needed. Agree regular dates to review all reasonable adjustments using Appendix 2.

Finally, as with all new employees, make sure you let them know what you expect and to ensure that they understand your workplace policies and procedures.

Appendix 2 – Reasonable adjustment action plan

This is record of agreed actions between manager and employee, to create a record of the reasonable adjustments that can be accommodated to support the employee within the workplace. The employee only needs to inform the manager of details about their health in relation to their role and the workplace and as far as they feel comfortable. This document is not legally binding.

The purpose of this action plan is to:

- ensure that both the employee and the employer have an accurate record of what has been agreed;
- minimise the need to renegotiate reasonable adjustments every time the employee changes job, is relocated or is assigned a new manager within the organisation; and
- provide the employee and his or her line manager with the basis for discussions about reasonable adjustments at future meetings.

This action plan may be reviewed and amended as necessary with the agreement of both parties:

- at any regular one-to-one meeting;
- at a return-to-work meeting following a period of sickness absence;
- at six-monthly and/or annual appraisals;
- before a change of job or duties, or the introduction of new technology or ways of working; or
- before or after any change in circumstances for either party.

NB: The employee must let the manager know if there are changes to their condition that influence their work and/or if the agreed adjustments are not working. The employee and the manager will then meet privately to discuss any further reasonable adjustments or changes that should be made.

If the manager notices a change in the employee's performance at work or feels that these reasonable adjustments are not working, they will meet with the employee privately to discuss what needs to be done.

It may be that the adjustments agreed as part of the action plan are for the short term and are put in place on a temporary basis. At the review meeting the manager should document if this is the case on the employer's comments section of the form

Following completion of the action plan

An up-to-date copy of the action plan should be retained by the employee, line manager and HR department. A copy may also be given to a new or prospective line manager with the prior consent of the employee. If the employee changes job, is relocated or is assigned a new manager, the new manager should accept the adjustments outlined in this agreement as reasonable and ensure that they continue to be implemented if this continues to be required.

Reasonable Adjustment Action Plan

Employee's name	
Job Title	
Department	
Line Manager's name	
<i>This is a record of the reasonable adjustment agreed between xxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxxxxxxxxxx</i>	
Employee	
In your words, how does your ill health affect you? How might your condition impact on your work?	
Can you describe in your own words any triggers that may exacerbate your ill health and early warning signs that your manager might notice?	
What support or adjustments could your manager put in place to minimise the impact of triggers or to manage your symptoms at work? Is there anything your manager should try to avoid doing?	
If your health deteriorates or your manager notices any early warning signs, what should they do?	
Do you wish to seek the advice and support from Occupational Health on reasonable adjustments or wellbeing support?	

Employer		
Reasonable adjustments or support agreed:		
Signed:	<i>Employee</i>	Date:
Signed:	<i>Employer</i>	Date:
Review date:	Agreed by both	

Appendix 3 - Advice and support

Internal

HR Advice	CHR@carmarthenshire.gov.uk 01267 246129
Occupational Health	OccupationalHealth@carmarthenshire.gov.uk 01267 246060
Learning and Development	LD@carmarthenshire.gov.uk

External

Access to Work: a scheme to help the employee and employer work out what the issues and likely solutions are. They also give grants for making adjustments.	https://www.gov.uk/access-to-work/overview
DirectGov -	https://www.gov.uk/
Shaw Trust	http://www.shaw-trust.org.uk/home
Disability Wales	https://www.gov.uk/browse/disabilities

Information for employees who feel they are in crisis.

<p>CALL: Community Advice and Listening line: 0800 132 737 (24hr)</p> <ul style="list-style-type: none">• SAMARITANS: 116 123 (24hr)• NHS Direct: Search for various emotional support services in local areas• Education Support Partnership: Specific support for teachers

For support for employees with cancer or caring for someone with cancer & manager guidance

Macmillan Cancer http://www.macmillan.org.uk/Cancerinformation/Livingwithandaftercancer/Workandcancer/Supportforemployees/SupportForEmployees.aspx

Appendix 4 – Top tips to support disabled employees

Don't make assumptions	
Don't make assumptions about what support an employee might need. You will need to discuss any specific needs or adjustments with the employee	
Engage with people	
Dwelling on definitions and diagnoses is unlikely to be helpful as too often, a diagnostic label leads to preconceptions as to what a person can and cannot do. The most productive approach is to talk to the person, get a clear understanding of what they can do, rather than what they can't do and so understand problems or issues and work on the basis of the person's capabilities.	
Talk at an early stage	
Talk at an early stage. The earlier you notice that an employee is experiencing difficulties or requires an adjustment the better for all concerned. Your early actions can help prevent the situation becoming worse.	
Identify early signs	
Some of the key things to look out for are poor performance, tiredness and increased sickness absence. Increased use of alcohol, drugs or smoking. The employee might start turning up late or experience problems with colleagues. Regular work planning sessions or informal chats about progress provide opportunities to find out about any problems an employee may be having.	
Manage the team	
Be aware of the impact one employee's disability could have on the rest of the team, whether as a result of reasonable adjustments that have been made or because a person's particular symptoms or behaviour. You need to ensure that hurtful gossip or inappropriate behaviour	

are dealt with promptly and effectively. (refer to the behavioural standards guidance)	
Communicate	
Communicate in an open, matter of fact way. You should agree with the person whether, and precisely what, they wish colleagues to be told. Do not be afraid to talk about this with the employee.	
Keeping in touch	
Managers often fear that contact with someone who is off sick will be seen as harassment. However, the overwhelming view from employees who are absent due to physical or mental health conditions or illness is that they wish to keep in touch in some way.	