



Disability Handbook

www.nuj.org.uk

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From the General Secretary

Much has changed since we produced the first edition of this handbook in 2007. During that period the UK acquired new legislation in the form of the Equality Act 2010 and I was delighted to be elected as the NUJ's General Secretary. One thing that hasn't changed, however, is the NUJ's proud commitment to fight for equal rights for disabled workers.

Although society is beginning to accept that discrimination against disabled people is unacceptable, there is still much to do to make sure there is real equality in employment.

This handbook provides information on current legislation and recommendations of good practice for chapels and branches alike. It also contains information for union members on how to make sure disabled members may fully participate in all union activity and a useful section on how to deal with the sudden onset of disability, something that can affect us all.

I am sure you will find this handbook a useful resource in challenging discrimination and in negotiating good policy and practice.



Michelle Stanistreet
General Secretary





DISABLED? ME?

Forget the old-fashioned notion that only wheelchair users or people with obvious disabilities are disabled.

Among people of working age in the UK 6.9 million are recorded as disabled. In Ireland, the proportion of working people recorded as having a disability is 6% and in both nations the number of people with acquired disabilities increases with age. But how many workers hide their disability for fear of losing their job or because of the stigma that is attached to certain conditions such as mental health problems? Yet 1 in 4 people, at some point in their life, will have a mental health condition and many do not realise that conditions they live with, such as diabetes or epilepsy are also considered to be a disability in terms of anti-discrimination legislation.

This handbook aims to assist members, disabled and non-disabled, to understand how the NUJ views disability and to give advice on the rights disabled members have under the UK Equality Act 2010 and the Republic of Ireland's Employment Equality Act 1998-2004. And because legislation isn't the total answer, this handbook also includes advice on how to negotiate good policy and practice, providing the tools to challenge discrimination and dismantle the barriers to inclusion – in the workplace and also in our own trade union.

HOW DOES THE NUJ VIEW DISABILITY?



The NUJ supports the social model of disability. This means that we go beyond the view of disability as a medical condition. We believe it is the way society is organised that creates barriers to inclusion and prevents disabled people from taking an equal part in life.

Disabled workers often experience exclusion and discrimination and the NUJ has a key role to play in organising and bargaining for a fair deal for disabled members. We therefore campaign for accessible workplaces and challenge negative attitudes and prejudices, including the way we as journalists write or speak about disabled people.

To assist this work, the NUJ has a Disabled Members Council (DMC). This is a group of members nominated by branches. Seven are elected at the union's Delegate Conference and further representatives are drawn from the union's industrial councils and national councils.

This means that the DMC reflects a broad spread of industrial and geographical interests from within the NUJ and is a democratic body open to all members who wish to become involved. The only criteria all members of the DMC must adhere to is that they self-define themselves as disabled and register themselves as such via the union's membership data base. The union's policy on disability, which relates to all union activities, can be seen on the union's website at www.nuj.org.uk.



The DMC is always willing to welcome members who want to get involved. If a member would like advice from the DMC on a disability issue, they are welcome to contact current members of the

Council. Details of contact information are available at www.nuj.org.uk. Disabled members in the NUJ also run an online forum. Details of how to log on to this are also at www.nuj.org.uk.

Disabled members and legislation

Equality legislation sets a standard to which all workplaces, managers and colleagues must adhere. If used properly legislation can be a driving force for change, not only in practical matters but also as a means of challenging attitudes.

UK legislation on disability is now covered by the **Equality Act 2010**. In the Republic of Ireland the **Equality Employment Act 1998-2004** continues to make discrimination in employment unlawful. These pieces of legislation are not perfect but do assist union representatives when confronting difficult workplace situations.

EQUALITY ACT 2010 – provisions on disability

This Act brought together all the previous separate discrimination and equality law into one single piece of legislation. It therefore covers the provisions of the previous legislation known as the Disability Discrimination Act including making direct and indirect discrimination, victimisation or harassment on the grounds of disability unlawful. The Equality Act covers Great Britain. Different legislation applies in Northern Ireland and information on this can be found at <http://www.equalityni.org/>.

The Act covers all employers, irrespective of the number of people employed and also covers job applicants and those who have left their job if their complaint is closely connected to that previous employment. Most importantly, a worker is protected from the first day of employment.

Definition of disability

As defined by the Equality Act, a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- 'substantial' - more than minor or trivial
- 'long-term' - that the effect of the impairment has lasted or is likely to last for at least twelve months (there are rules covering recurring or fluctuating conditions)
- 'normal day-to-day activities' include everyday things like eating, washing, walking and going shopping

People who have had a disability in the past that meets this definition are also protected by the Act.

THE SCOPE OF THE EQUALITY ACT

A wide range of conditions fall within the definition of disability covered by the Equality Act. The definition can include mobility and sensory conditions such as deafness, blindness and partial sight. Carpal tunnel syndrome, asthma, diabetes, emphysema, bulimia, chronic fatigue syndrome (ME) and back pain all come within the definition of physical impairment.

Progressive conditions considered to be a disability

There are additional provisions relating to people with progressive conditions. People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis.

Further guidance on the definition of disability

The Government has produced statutory guidance on the definition of disability. This information can be found on the Equality and Human Rights Commission website

<http://www.equalityhumanrights.com/advice-and-guidance/your-rights/disability/>

Are you disabled?

When deciding whether you or a member is covered by the Equality Act, it is useful to ask the following questions:

- ✓ do I have a physical or mental impairment?
- ✓ is it more than a trivial condition?
- ✓ has it/will it last a year or more?
- ✓ what would happen if I stopped taking medication?
- ✓ does it affect my everyday life? Eg:
 - mobility
 - manual dexterity
 - physical co-ordination
 - ability to lift, carry or otherwise move everyday objects
 - speech
 - memory
 - hearing
 - concentration
 - eyesight
 - learning/perception.

If any of the answers are yes, you will be covered by the Act.

Discrimination

It is unlawful for employers to discriminate on the grounds of disability directly or indirectly or if they fail to make "**reasonable adjustments**". It is also unlawful to victimise someone or harass them on the grounds of their disability or their perceived disability.

Direct Discrimination occurs where:

- a disabled person is treated less favorably than someone else
- the treatment is for a reason relating to the person's disability
- the treatment cannot be justified

It is also direct discrimination to discriminate against someone who

- associates with someone who is disabled (associative discrimination)
- is thought to be disabled (perception discrimination)

Indirect discrimination occurs where someone who is disabled is put at a disadvantage by a provision, criterion or practice that applies to everyone unless the employer can justify it.

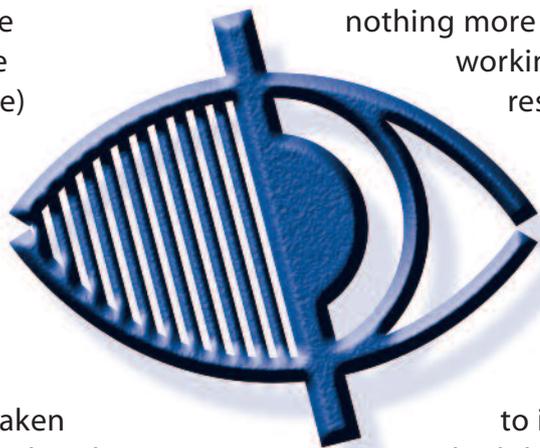
Discrimination also occurs where:

- there is a failure to make a reasonable adjustment and this failure cannot be justified by the employer as a "proportionate means of achieving a legitimate aim"
- there is post-employment discrimination (references for example)
- an employer instructs someone else to discriminate

Harassment on the grounds of disability which is unwanted and which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment is unlawful. An employer is liable where an employee is harassed by the same or different people on at least three occasions (known as the "three strikes rule") and the employer has not taken reasonable steps to prevent the harassment re-occurring. Harassment based on the perception or associative discrimination (see above) is also unlawful.

Victimisation of a person, whether disabled or not, on the grounds that they have given evidence in connection with a case taken under the Equality Act or that they intend to do so, or have made a complaint about a contravention of the Act is unlawful.

An employer may not ask job applicants questions about their health before making an offer of employment unless the questions are to establish if reasonable adjustments to the recruitment process are required.



Reasonable Adjustments

Every employer should make reasonable adjustments so that disabled workers are not put at a disadvantage. But what is reasonable? The answer to this is as varied as the number of cases to which it applies. However, an employer cannot just decide what is reasonable for them. An employer is expected to behave in a fair way to an employee and thus provide the space for negotiation.

Reasonable adjustments can vary from nothing more than a flexible approach to working hours or allowing extra rest breaks or they may include more far-reaching physical changes to office premises or purchase of equipment such as voice-activated computer software.

Some workers will be willing to inform their employer of their disability but some may not wish their employer to be informed.

However, if an employee fails to inform their employer and their work capability suffers as a result of no reasonable adjustments being made, the employer may not be held responsible.

However, in some circumstances, it may be deemed that an employer, as part of their duty of care to their employees, "ought to have known" and therefore should have offered to provide adjustments. If for example, an employee exhibit signs of a condition and the employer makes no attempt to explore this further it could be argued that the employer was aware of symptoms and should have taken steps

In all cases the disabled person themselves should be closely involved in the decisions made on what adjustments are needed.

to find out whether there was an underlying disability.

Reasonable adjustments is all about negotiation and can be a difficult balancing act, as the access needs of the worker need to be considered in the light of an employer's resources. "Reasonable" can be difficult to define but guidance is provided by the Government in a Code of Practice which sets out ideas on what adjustments which can be considered "reasonable":

- adjustments to premises
- amending working hours
- allowing disability leave so the worker can obtain treatment, assessment or rehabilitation
- allocating some duties to other staff
- redeploying the disabled worker to an existing vacancy
- transferring the disabled worker to an alternative place of work or place of training that is more appropriate to the worker's needs
- arranging training or mentoring – this includes other staff
- purchasing or modifying equipment, instructions or manuals
- modifying procedures for assessments
- providing assistants such as readers
- improving support or supervision.



John Birdsall Social Issues Photo Library

Reasonable adjustments, taking into account the employer's financial and other resources should be carried out in a reasonable (there's that word again) time period. The time frame and the way they are implemented should be discussed in advance with the disabled worker.

In addition to reasonable adjustments, the Code of Practice suggests:

- permitting flexible working
- allowing a period of disability leave
- employing a support worker to assist the disabled member
- modifying grievance or disciplinary procedures
- adjusting redundancy selection criteria
- modifying performance-related pay arrangements.

The time period for making the reasonable adjustments can take into account the employer's financial and other resources and these should be a matter of negotiation between the worker or his/her rep and the employer. It is important at all times to keep the disabled member included in the discussions.

Case law

A large part of case law has developed from the interpretation of what constitutes "reasonable adjustments". Helpful guidance on case law can be found at the Equality and Human Rights Commission website www.equalityhumanrights.com.

Rights in everyday life

The Equality Act 2010 also provides rights not to be discriminated against or harassed in:

- accessing goods and services in shops, restaurants, banks, cinemas etc
- access to health services
- accessing education
- buying or renting property
- accessing or being a member of a club
- accessing functions of public bodies

Getting our own house in order

Trade unions have specific duties in a Code of Practice for Trade Organisations. In general, it is unlawful to discriminate against members and prospective members and the whole range of union services must be provided including:

- representation
- access to training, conferences and other events
- union publications in alternative formats
- same benefits as provided to non-disabled members
- access to union meetings
- ability to participate in union elections.

This means making reasonable adjustments such as accessible venues with accessible toilets and the union is legally responsible for anyone acting in its name, including lay representatives.

UK Public Sector Disability Equality Duty

Detailed information regarding these duties and how they affect public bodies in England, Wales and Scotland can be found at the EHRC website -

http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/faqs-on-the-equality-duty/#What_is_the_public_sector_equality_duty.



Republic of Ireland Employment Equality Act 1998 and Equality Act 2004

The Acts outlaw discrimination against people with disabilities in relation to employment, training, work experience, conditions of employment and promotion. The definition of disability is wide so that discrimination on grounds of any disability, whether a minor or more serious impairment, is not permitted.

Employers must ensure that their practices and procedures prohibit less favourable treatment for disabled people.

Discrimination

This has a specific meaning in the Acts and is described as the “treatment of a person in a less favourable way than another person is, has been or would be treated in a comparable situation”. As with the UK Equality Act, discrimination can be direct or indirect.

Application

The Acts apply to:

- full-time, part-time and temporary employees
- public and private sector employment
- vocational training bodies
- employment agencies
- trade unions, professional and trade bodies.

The Acts also extend to:

- the self-employed
- partnerships
- people employed in another person’s home.

Reasonable accommodation

An employer must take all reasonable steps to accommodate the needs of the person concerned:

- to have access to employment
- to participate or advance in employment
- to undertake training.

Appropriate measures include effective and practical measures including premises, equipment, patterns of work time, distribution of tasks or the provision of training.

The employer can argue that the adjustments impose a disproportionate burden and account will be taken of:

- the financial and other costs involved
- the scale and financial resources of the business
- the possibility of obtaining public funding or other assistance.

The Acts carry an exemption in relation to capacity and competence which state that an employer is not required to employ someone who is not fully competent or capable of doing the job. However, this does not apply until all reasonable accommodation has been applied.

Making a claim

All claims must be referred in the first instance to the Equality Tribunal, which is a quasi-judicial body established to investigate, hear and decide on claims for discrimination.



In deciding whether to lodge a claim, an employee may first request information from their employer via a standard form of questionnaire (form ODEI 3 and ODEI 4). These forms are available from the Equality Tribunal, (www.equalitytribunal.ie).

There is a six-month time limit from the last act of discrimination but this can be extended up to 12 months by the Director of Tribunals “for reasonable cause”.

EMPLOYER LIABILITY

As with the UK Equality Act, it is unlawful for an employer to penalise an employee for taking action under the auspices of the acts. An employer also has vicarious liability for anything done by an employee, unless the employer can prove practicable steps were taken to prevent discrimination.



Disabled members and the workplace

An informed union representative can make a huge difference to the way disabled members are treated at work. In many cases, just by referring the employer to the UK or Irish Equality Acts, reps can bring about far-reaching changes which have an extremely positive impact on a disabled member's work environment.

Taking a case can be complicated and stressful for the member concerned so it is always far better, in the first instance, to try to negotiate suitable adjustments.

In all situations, the wishes of the disabled member must be taken into account and

they must always be closely involved in working out the solution to the problem. Negotiations may also serve as a way to persuade an employer to review their policies and procedures, in order that they can make them more disability-friendly, ie:

- attendance management and sick leave
- redundancy selection criteria
- promotion and access to training
- performance, appraisal and discipline
- bullying and harassment
- access to benefits
- redeployment, changes to the job content, times of work, workplace location
- health and safety.

OUTSIDE ADVICE

In all situations, it is best to adopt a problem-solving approach which involves the disabled member and the employer. This may include contacting an outside agency for expert advice, such as organisations dealing with one particular type of impairment.

Sickness absence

One of the hardest problems to overcome is the employer's reluctance to make a clear distinction between sickness and disability.

Recent employment tribunal cases have reached contradictory conclusions over the extent to which the duty to adjust can extend in the area of prolonged sick leave and therefore the best approach will be to negotiate new policies with the employer such as the following:

- attendance records should be adjusted to discount disability-related absence
- disability-related sickness absence should be discounted for redundancy selection criteria, performance appraisal, promotion criteria, disciplinary procedure
- planned return-to-work programmes to be implemented, such as returning to work part-time
- a disability leave policy which makes clear that it is not related to sick leave but is for therapy, rehabilitation or a period of leave while reasonable adjustments are implemented (see the separate section on disability leave).

Dismissals on the grounds of ill-health

Such a dismissal based on ill-health related to a disability may be discriminatory unless the organisation has properly explored the possibility of reasonable adjustments such as a shorter working week or alternative work. However, after all negotiations are exhausted and legal advice has been taken on the possibility of taking a tribunal, it may be necessary to consider early retirement on the grounds of ill-health, but this is something that should be avoided if possible.

Redundancy selection criteria

Any criteria which is based on sickness absence may put disabled members at a disadvantage and may be discriminatory.

Any criteria for redundancy should make reasonable adjustments for disabled employees in order that they are considered on an equal basis to non-disabled employees. The targeting of disabled employees so that they feel pressurised into volunteering for redundancy may also be unlawful. Any disabled member who feels this is happening to them should contact their rep straight away.

Promotion and access to training

Any disabled member who feels they have been overlooked for promotion or who is constantly denied training should contact their rep as this may be discrimination and therefore unlawful. The overlooking of disabled employees in this situation is often down to one or two line managers' lack of understanding of disabled people and this is something that may be overcome by introducing disability awareness training for the managers.

Performance, appraisals and consequent discipline

A disabled member may have an impairment that requires them to work more slowly than a non-disabled colleague or they may be taking a course of treatment that affects their performance. If this is not taken into account by management, it may result in poor appraisals, consequential discipline and, where there is performance-related pay, the disabled member may lose out. In this situation, the rep can refer management to the need for reasonable adjustments, as applying a rigid performance quota to a non-disabled employee may amount to discrimination.

Bullying and harassment

The NUJ condemns all forms of bullying and harassment and campaigns for all companies to have a policy on dignity at work. It is unlawful to bully, harass or intimidate someone because they are disabled. This includes making offensive jokes, using derogatory language or creating a hostile or degrading environment. Harassment of a disabled employee because they have made a complaint about discrimination is considered to constitute victimisation and is therefore also unlawful.

Access to benefits

Any denial of benefits routinely given to non-disabled employees is discrimination and unlawful.

Redeployment and changes to work patterns

Selection for redeployment must not be targeted at disabled employees unless it is part of a negotiated reasonable adjustment package. If there is a redeployment pool,

disabled employees should play an active part in the process so that they are not given an inappropriate placement.

At all times, the rep should ensure that management are making reasonable adjustments in the criteria they place upon certain jobs so that disabled employees are not discriminated against. Changes to shift patterns, locations and working systems may impact adversely on disabled employees and this should be taken into account and adjustments made. In all situations, the best way to make sure that problems are not created is to consult with the disabled member.

Health and safety

Some employers have tried to use health and safety legislation to deny disabled people employment, stating that wheelchair users would not be able to escape from a building in event of a fire etc. This is a spurious argument and employers should be asked to carry out a risk assessment and make

COMBINING LEGISLATION

Reps should take the approach that disability and health and safety legislation can be used together to make the workplace safer for all employees. Risk assessments should be carried out taking into account individual needs – this is already the case with pregnant employees and good practice dictates that this should be extended to disabled employees.



reasonable adjustments. Not to do so may amount to discrimination and be unlawful.

By consulting with the disabled member straight away about any perceived health and safety risks, the solution may be extremely easy to identify – for example, flashing lights or a personal alarm that vibrates will alert a deaf employee to a fire alarm; or the adoption of a “buddy” system where a couple of non-disabled employees agree to help guide a blind employee out of the building quickly in an emergency situation.

Audits

Once an employer has recognised their duties to disabled staff it is a good idea to suggest that a general equality audit is undertaken. The employer will be expected to review everything for compliance with good practice and the law – it is in their own best interests to do so. This should be followed by the production of an equal opportunities statement and the remedies which are required to put the statement into practice to make it meaningful.

Two Ticks/Positive to Disability schemes

The Two Ticks symbol should demonstrate that an employer is committed to the employment of disabled people. This commitment involves promising an interview to all disabled applicants meeting the minimum job criteria, making necessary adjustments and supporting the appointed disabled worker by reviewing their requirements on a regular basis.

Unfortunately there is no monitoring of employers to check that they are living up to these requirements and therefore if your employer is using the symbol, they should be urged to review their practices on a regular basis. Union reps should always check with disabled members whether they feel the employer is adhering to the original commitments.

Ireland has a similar scheme called the “Positive to Disability Mark”. This is awarded to organisations which operate to a high standard of excellent in their treatment of people with disabilities.

Union activity - Access all areas

Access for disabled members means much more than physical access for people with mobility impairments. By thinking inclusively, branch and chapel officers can make sure that disabled members can attend meetings without worrying whether their requirements are going to be met. The NUJ, and this includes all chapels and branches, has a legal duty to ensure that wherever possible disabled members can use or receive the same services to the same standards as non-disabled people. The NUJ also has a duty to anticipate that disabled journalists who wish to join the union will want to use these services and therefore reasonable changes or “adjustments” should be made so that they are able to do so.

The advice provided here may look daunting – we have given information that covers all sorts of meetings. Most branches and chapels will be organising short meetings for which some of the advice will be unnecessary.

Once you have chosen a venue, most branch and chapel officers will not need to run through all this advice for every meeting. However, it is as well for officers to keep a watching brief in case an accessible venue’s standards fall. In this case, it is helpful to all that the venue manager is made aware of the reduction in service which may be breaching their responsibilities under legislation.

At the end of this advice there is a check list which will assist you in providing minimum access requirements.



First approach

If you do not know the venue very well, check the building before you arrange a meeting for the approach and entrance to the venue, including:

- adequate signage and information
- accessible car parking/good public transport connections
- accessible pedestrian approaches and ramps
- steps for ambulant disabled people (with walking difficulties)
- accessible entrance doors, turning space for wheelchairs.



Photograph courtesy of guidedogs.org.uk

Moving around the building

Evaluate how a disabled person would move around the building using signage, corridors, lift, catering areas.

Check that the entrance to the meeting room is wide enough for a wheelchair and that there is sufficient turning space. Also check that there are accessible toilets and that these are conveniently placed.

Check whether the building has a good acoustic or loop system for members with hearing impairments.

Make sure fire evacuation policies and

procedures are clearly signed, including requirements for assisting disabled people out of the building.

Arranging the meeting

- When sending out notices of the meeting, ask members with particular access requirements to notify you of their needs
- Make sure the agenda/minutes/other documents are sent out well in advance and that these are available in alternative formats including Braille, large print, audio etc.
- If you have a disabled member who is a regular attendee, consider how you can involve them more in the planning process
- Food - if providing catering ask if members have any dietary requirements
- Breaks – these can be essential for some disabled members and are often welcomed by everyone at a very long meeting!
- Map – provide a clear map locating the venue, parking, toilets etc.
- If you are organising a one-off meeting ask a member to act as the person who receives members in the reception area, or as an enabler if a member has to sign in
- Layout of meeting room. Think about lines of sight, especially if you have hired a signer for hearing-impaired members. This is also important if you have organised screens for overhead projectors or PowerPoint presentations
- Workshops – ask members to indicate which workshops they wish to attend so you can arrange facilitators to be in the appropriate rooms

- Awareness – make sure chairpersons, speakers and presenters are aware of the requirements of disabled participants
- Seating – some disabled people may require seats with arms or with high backs
- Tables – if there is a lot of paperwork, all members may welcome tables, but these are especially helpful for people who find it easier to have something to rest their papers on
- Information in accessible formats – Braille, large print, audio etc. If you are using presentation materials think about colour contrasts such as avoiding blue and red for members who are colour blind.

Communication requirements

You may need to consider hiring:

- sign language communicators
- hearing loops
- lip speakers
- note takers
- facilitators and personal assistants – you may need to book more than one facilitator if the meeting is going to last a long time. For an all day meeting, some participants may need assistance throughout the day and may prefer to bring their own support workers.

Quick check list

- Have you checked the venue personally?
- Are there adequate disabled parking bays or conveniently sited accessible public transport provision?
- Have you checked the access in and out of the building, including fire evacuation procedures?
- Has the building got accessible toilet provision?
- Have you requested information regarding access needs when sending out publicity material?
- Have you arranged for the agenda and any other documents to be provided in accessible formats?
- If providing catering – have you asked about any dietary requirements?
- Is the catering area accessible?
- Have you provided a clear map which locates the principle access facilities?
- Have you arranged the room appropriately, organised signers, induction loops, facilitators etc.?
- Have you informed speakers of the participation of a disabled member?

Disability leave

Disability leave is time off from work for a reason related to someone's disability and counts as a reasonable adjustment. It is always important that the disabled member is the first person to be consulted on what leave is required.

Disability leave can be used to organise and recruit a group of marginalised workers. By using the disability leave model agreement reps can negotiate better conditions of service for disabled members and can encourage disabled non-members to join the NUJ. Members of the NUJ may not know that they qualify for protection under legislation, so the process of negotiating a good disability policy which includes disability leave will make members more aware of their rights.

The model agreement overleaf is based on best practice that has been drawn from a number of agreements. It may not, therefore, be totally suited to your particular workplace and you will need to tailor it to your particular circumstances. Wherever possible, it is

PUTTING THE BUSINESS CASE

You may need to emphasise the business case to your employer and the benefit of being able to plan when a disabled member of staff will be absent. You should also stress that if reasonable adjustments have been put in place for the member to continue to contribute fully to the workplace, the amount of actual leave will be minimised.

important that disability leave is paid as experience has shown that unpaid or low-paid leave is rarely taken up.

In negotiating disability leave you will need to agree a definition of "disabled". This is regulated by legislation but you may be able to get your employer to widen the definition to include all those who have a long-term degenerative illness.

It should be stressed to the employer that disability leave should be viewed as one of the reasonable adjustments that the employer may find appropriate.

One of the most fundamental issues when negotiating disability leave is that it must be viewed by all parties as completely different from sick leave and therefore should be recorded separately. This will make sure that a disabled worker is not penalised if an employer pursues an absence management scheme.

A disability leave agreement should also include a review procedure. This will assist the employer and the worker in case adjustments are required, especially where conditions are progressive, such as MS.

Model Agreement

This organisation is committed to creating an environment in which disabled members of staff feel valued and respected.

We are aware of our duties under current legislation to make reasonable adjustments to enable disabled members of staff to fully contribute to our organisation.

We believe that disability leave is a "reasonable adjustment" and in accordance with good employment practice.

Disability leave will not be included for the purposes of assessing performance, promotion, attendance, selection for redundancy or similar issues.

Disability leave will be considered distinct from sick leave and recorded separately.

If an employee is on sick leave and it becomes clear that they qualify for disability leave, they will be transferred onto disability leave.

Disabled employees may choose to inform (the employer's title) that they are disabled. While this is not considered obligatory, it is recommended that they do so in order that reasonable adjustments can be facilitated. This information will be kept strictly confidential.

If disability leave is required, agreement must be reached on the approximate number of days and approximate dates of the leave.

In the first instance, the disabled employee will meet with their manager on a confidential, individual basis and discuss what reasonable adjustments are required. An employee may be accompanied by a union representative at this meeting.

If agreement cannot be reached, a formal meeting will be held and information will be sought from other parties to help determine what constitutes a reasonable adjustment. This may include:

- a GP or specialist's report (with employee's consent)
- a report from occupational health
- other information from the employee
- advice from the Human Resources department
- consultation with an NUJ representative
- advice from a local Disability Employment Adviser.

All information will be circulated to those attending the formal meeting at least one week prior to the meeting taking place.

If no agreement can be reached, the employee has the right to utilise the company's grievance procedure.

If agreement is reached, it will be reviewed on an annual basis to assist in planning.

Employees whose impairment or circumstances change may request a review of their disability leave or other reasonable adjustments at any time.

If an employee is on disability leave for more than two weeks, their manager will brief them on return to work of any changes that have occurred while they were away.

Employees on disability leave will be sent job advertisements, internal newsletters etc.

Abuse of the disability leave scheme will be considered a serious disciplinary offence and dealt with under the usual disciplinary procedure.

Adjusting to disability

Becoming disabled is something that few people can prepare themselves for. The realisation that you are disabled, particularly if it is due to a sudden illness or injury can create a host of physical and emotional changes that are personal to you and there are no hard and fast rules as to how to proceed or cope.

Newly disabled people can often feel frightened and without direction as they struggle to come to terms with their disability and there will need to be a period of adjustment. During this time support from other members and colleagues is vital. This page aims to give some basic advice on how to deal with a newly acquired disability and links to other organisations which can be of help.

- 1 Expect an emotional reaction to your change in status – anger and frustration



are common feelings but try to use the energy of these emotions to become more positive about your situation.

- 2 Don't hesitate to obtain counselling. Professionals will work with you to help you find ways of dealing with problems you are experiencing.
- 3 Expect changes in your energy levels and give yourself time to readjust.
- 4 Contact support groups and organisations – this is a good way of getting informal advice and support and talking to other people with similar disabilities will help to reassure you.
- 5 You may need support from health and social care services. A health and social care assessment with the social services department of your local council is the first step in finding out what kind of care or equipment is available. Take a look at your council's website to see what is available locally.
- 6 You may be entitled to financial support to help meet extra costs because of your disability. Advice can be obtained from organisations listed below.
- 7 There are many things that can be done to enable you to remain in employment. Under legislation your employer has a duty to make reasonable adjustments such as providing practical aids, technical equipment or altering work processes or organising alternative duties or hours, for

example. In the UK Disability Employment Advisers at Jobcentre Plus offices or jobcentres can give you information on Access to Work schemes or you can view information on this at

http://www.direct.gov.uk/en/DisabledPeople/Emplimentsupport/WorkSchemesAndProgrammes/DG_4000347

- 8** The Driver and Vehicle Licensing Agency (DVLA) must be informed of any medical condition or disability that may affect your driving. You may be able to get your vehicle adapted. Information about this can be obtained at <http://www.direct.gov.uk/en/DisabledPeople/MotoringAndTransport/index.htm>

You may be entitled to a “Blue badge” which enables you to park your car near shops etc. To find out more information go to <http://www.dft.gov.uk/topics/access/>

Further information

Ability Hub: Provides information on equipment, particularly adapted computers www.abilityhub.com/

AbilityNet: More information on technical adaptations <http://www.abilitynet.org.uk/>

Disability Alliance: “Breaking the link between poverty and disability”, great advice on benefits and how to claim www.disabilityalliance.org

Disabled Living Foundation: Gives impartial advice on equipment www.dlf.org.uk/

Enable Ireland: Advice on disability issues including benefits and entitlements for

disabled people in Republic of Ireland. <http://www.enableireland.ie/adults>

Equality Authority, Republic of Ireland:

An independent body set up under the Employment Equality Act 1998. Promotes and monitors the Employment Equality Acts 1998-2004 and Equal Status Act 2000 to outlaw discrimination across nine grounds of equal rights. <http://www.equality.ie/>

Equality Commission for Northern Ireland:

Independent public body established under Northern Ireland Act 1998 with statutory remit to promote equality of opportunity in Northern Ireland. <http://www.equalityni.org/site/default.asp?secid=home>

Equality and Human Rights Commission (EHRC):

UK Commission with statutory remit to promote and monitor equality and human rights in England, Wales and Scotland. <http://www.equalityhumanrights.com/>

Irish Congress of Trade Unions (ICTU):

Umbrella organisation for 55 affiliated unions in the Republic of Ireland and Northern Ireland. Equality Authority, Republic of Ireland: An independent body set up under the Employment Equality Act 1998. Promotes and monitors the Employment Equality Acts 1998-2004 and Equal Status Act 2000 to outlaw discrimination across nine grounds of equal rights. <http://www.ictu.ie/>

Papworth Trust: Supports disabled people to be more independent at home or at work www.papworth.org.uk

TUC: Produces a variety of resources on disability equality www.tuc.org.uk



Photograph courtesy of Hearing Dogs for Deaf People

Portrayal issues

Disability is never that crucial that it should create tear-jerking human interest stories about incurable diseases, congenital impairments or severe injury.

Focus instead on issues that affect the quality of life for those same individuals, such as accessible transportation, housing, affordable health care, employment opportunities and discrimination.

Even though the public, and therefore our profession, may admire super-achievers, portraying people with disabilities as superstars raises false expectations that all people with disabilities should achieve this level.

Never make disability sensational or emotive by saying 'afflicted with, crippled with, suffers from, victim' and so on. Instead, say for example 'a person who has multiple sclerosis'.

Emphasise people, not labels. Say 'people with mental health problems' or 'people who are deaf'.

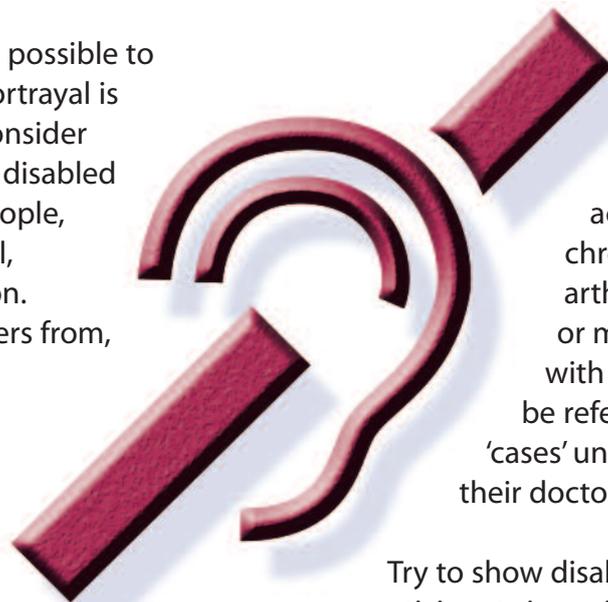
People are not automatically to be paired with their disability. Say 'woman with arthritis, children who are deaf, disabled people'. This puts the focus on the individual, not the particular functional limitation. Because of editorial pressures to be succinct,

we know it is not always possible to put people first. If the portrayal is positive and accurate, consider the following variations: disabled people, non-disabled people, wheelchair user, deaf girl, paralysed child, and so on. Crippled, deformed, suffers from, victim of, the retarded, infirmed, the deaf and dumb etc. are never acceptable under any circumstances. Also, avoid using nouns to describe people, such as epileptic, diabetic etc.

State ability not limitations, for example : uses a wheelchair/braces, walks with aids, rather than confined to a wheelchair, wheelchair-bound, birth difference, certainly do not use the term 'crippled'. Similarly, do not use emotional descriptors such as unfortunate, pitiful and so forth.

Disability groups strongly object to using euphemisms to describe disabilities. Terms such as handicapped, able, mentally different, physically inconvenienced, and physically challenged are considered condescending. They reinforce the idea that disabilities cannot be dealt with up front.

Do not infer continuing illness when discussing disabilities that result from a prior disease episode. People who had polio and experienced after effects have post-polio syndrome. They are not currently experiencing the disease. Do not imply disease with people whose disability has resulted from anatomical or physiological damage (eg. person with spina bifida or



cerebral palsy). Reference to disease associated with a disability is acceptable only with chronic diseases, such as arthritis, Parkinson's disease, or multiple sclerosis. People with disabilities should never be referred to as 'patients' or 'cases' unless their relationship with their doctor is under discussion.

Try to show disabled people as participants in society. Portraying disabled people interacting with non-disabled people in social and work environments helps break down barriers.

As with any piece of copy, balance is everything. The media has a responsibility to make sure that disabled people are not scapegoats for current economic ills. Therefore articles on state benefits and disability allowances should investigate all sides of the story and not make generalised claims about "benefit cheats" or "disability fraud". There are people who try to cheat the system in all sorts of ways, but a quick reference to UK Government statistics, for example, will reveal that benefits paid to disabled people tend to have the lowest rates of fraud.

There is increasing evidence of "hate crime" directed at disabled people and although it is impossible to say whether headlines about "disabled scroungers" may have had some input into this rise, it is always vital that members of the NUJ abide by the union's Code of Conduct - <http://www.nuj.org.uk/innerPagenuj.html?docid=174>

Appropriate language

ADHD (Attention Deficit Hyperactivity Disorder) relates to learning and behavioural problems which are not caused by any serious underlying physical or mental disorder. It is frequently characterised by difficulty in sustaining attention, impulsive and disruptive behaviour, and excessive activity. Say *'a person with ADHD'*.

Autism is a mental disorder originating in infancy that is characterised by self-centred subjective mental activity, especially when accompanied by withdrawal from reality, inability to socially interact, repetitive behaviour, and language dysfunction. Do not say 'autistic' but *'a person with autism'*.

Blind describes a condition in which a person has loss of vision. Visually impaired is the generic term used by some individuals to refer to all degrees of vision loss. Say *'sight impaired'* or *'low vision'*.

Brain injury describes a condition where there is long-term or temporary disruption in brain function resulting from injury to the brain. Difficulties with cognitive, physical, emotional, and/or social functioning may occur. Do not say 'brain damaged'. Do say *'person with a brain injury'*.

Chronic fatigue syndrome also called chronic fatigue and immune dysfunction syndrome. It describes a serious chronic condition in which individuals experience long periods of fatigue accompanied by physical and cognitive symptoms. Never use terms such as 'yuppie flu', 'malinger' and 'hypochondritis' as they imply

personality disorders. Just say a person has *chronic fatigue syndrome*.

Congenital disability describes a disability that has existed since birth but is not necessarily hereditary. The terms birth defect and deformity are inappropriate. Say *'a person with a congenital disability'*.

Deaf refers to a profound degree of hearing loss. Hearing impaired or hearing loss are generic terms used by some individuals to indicate any degree of hearing loss from mild to profound. These terms include people who are hard of hearing and deaf. Hard of hearing refers to a mild to moderate hearing loss that may or may not be corrected with amplification. Say *'people who are deaf'* or *'have a hearing impairment/loss'*.

Developmental disability is any mental and/or physical disability usually starting in childhood or teens and continuing indefinitely. It limits one or more major life activities such as self-care, language, learning, mobility, self-direction, independent living, and economic self-sufficiency.

This includes individuals with mental retardation, cerebral palsy, autism, epilepsy and other seizure disorders, sensory impairments, congenital disabilities, traumatic injuries, or conditions caused by disease (polio, muscular dystrophy etc). It may also be the result of multiple disabilities. Say *'a person with a developmental disability'*.

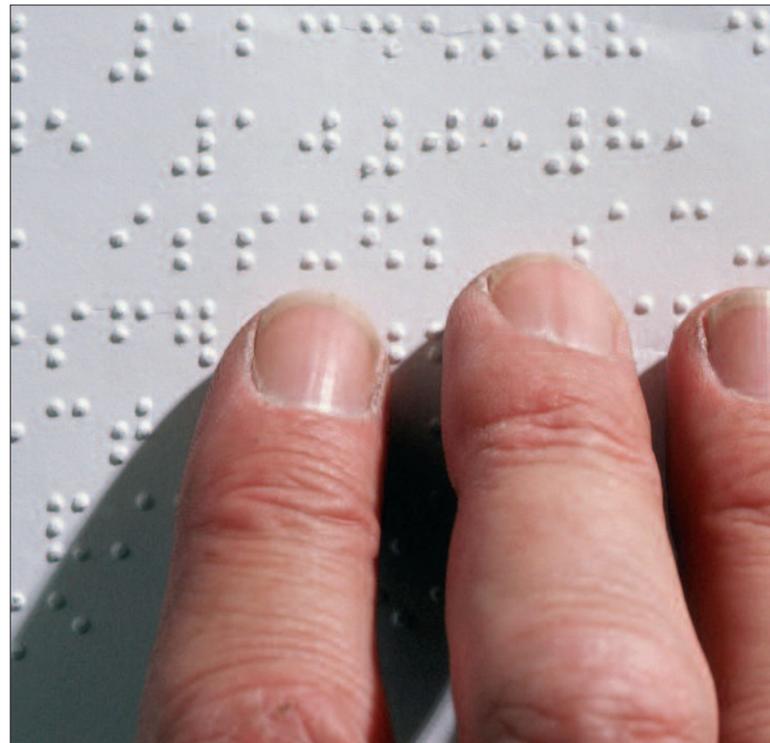
Disability is a general term used for a functional limitation. It may refer to a physical, sensory or mental condition. Do not refer to disabled people as 'the handicapped', 'handicapped persons' or 'in special need'. Impairment details can be used when citing laws and situations such as access issues.

Disfigurement refers to physical changes caused by such events as burns, trauma, disease, or congenital conditions. Do not use the term 'victim' rather say '*adult with burns*,' or '*child with burns*'.

Down syndrome describes a chromosome disorder that usually causes a delay in physical, intellectual and language development and which usually results in incomplete mental development. 'Mongol', 'Mongoloid' and 'Downs child/person' are unacceptable. Say '*a person with Down syndrome*'.

HIV/AIDS acquired immunodeficiency syndrome is an infectious disease resulting in the loss of the body's immune system to ward off infections. The disease is caused by the human immunodeficiency virus (HIV). A positive test for HIV can occur without symptoms of the illnesses that usually develop up to ten years later, including tuberculosis, recurring pneumonia, cancer, recurrent vaginal yeast infections, intestinal ailments, chronic weakness and fever, and profound weight loss. Don't say 'AIDS victim'. Say '*people living with HIV*,' '*people with AIDS*' or '*living with AIDS*'.

Learning disability describes a permanent condition that affects the way individuals take in, retain and express information. The term is favoured because it emphasises that



John Birdsall Social Issues Photo Library

only certain learning processes are affected. Do not say 'slow learner', 'retarded' etc but do say '*person with a learning disability*'.

Mental disability generally comprises mental disability, psychiatric disability, learning disability or cognitive impairment which are acceptable terms. Always precede these terms with, '*person with ...*'

Non-disabled is the appropriate term for people without disabilities. 'Normal', 'healthy' (compared to unwell or disabled people) or even the word 'whole' are inappropriate.

Psychiatric disability, psychotic, schizophrenic and other specific terms should be used only in proper clinical context and should be checked carefully for medical and legal accuracy. Words such as 'crazy, maniac, lunatic, demented, schizo' and 'psycho' are highly offensive and should



never be applied to people with mental health problems. Acceptable terms are, *'people with psychiatric disabilities, emotional disorders, or mental disorders.'*

Seizure describes an involuntary muscular contraction, a brief impairment or loss of consciousness resulting from a neurological condition such as epilepsy or from an acquired brain injury. The term 'convulsion' should be used only for

seizures involving contraction of the entire body. Do not use 'has fits'. Rather than 'epileptic', say *'person with epilepsy'* or *'a seizure disorder'*.

Small/short stature describes people generally under 4'10" tall. Never refer to dwarfs or midgets, which imply a less than full adult status in society. Dwarfism is an 'accepted' medical term, but it should not be used as general terminology. Say *'persons of small (or short) stature'*.

Speech disorder is a condition in which a person has limited or difficult speech patterns. Never use 'mute' or 'dumb'. Say *'person who has a speech disorder'* or *'a person with a speech impairment'*.



Spinal cord injury describes a condition in which there has been permanent damage to the spinal cord. Quadriplegia denotes substantial or significant loss of function in all four extremities. Paraplegia refers to substantial or significant loss of function in the lower part of the body only. Say *'man with paraplegia'*, *'woman who is paralysed'*, or *'person with a spinal cord injury'*.

Stroke is caused by interruption of blood to the brain. Hemiplegia (paralysis on one side) may result. *'Stoke survivor'* or *'person who has had a stroke'* is to be preferred to stating someone is a 'stroke victim'.

Substance dependence refers to patterns of substance use that result in significant impairment in at least three life areas (family, employment, health etc). Substance dependence is generally characterised by impaired control over consumption, preoccupation with the substance and denial of impairment in life areas. Substance dependence may include physiological dependence/tolerance withdrawal.

Although such terms as 'alcoholic' and 'addict' are medically acceptable, they may be derogatory to some individuals.

Acceptable terms are, *'people who are substance dependent'* or *'people who are alcohol dependent'*.

An individual who has a history of dependence on alcohol and/or drugs and is no longer using alcohol or drugs may identify themselves as *'recovering'* or *'as a person in recovery'*.

Notes





You can view this handbook on the NUJ website www.nuj.org.uk and it is also available in alternative formats. Please contact the NUJ.