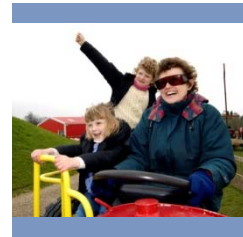
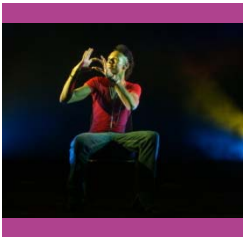




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Your Rights and Their Responsibilities

Rob Wilks



Introduction



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- The Disability Discrimination Act 1995 was repealed by the Equality Act 2010 as of 1 October 2010
- This poses a number of questions:
 - What are the main changes?
 - What rights do “you” have?
 - What responsibilities do “they” have?

- Aim is to “strengthen, harmonise and streamline” 40 years of equalities legislation (116 separate pieces of legislation)
- “Protected characteristics”
 - Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion and belief
 - Sex
 - Sexual orientation

Disability



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- a physical or mental impairment, and
- the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.
- Long term is 12 months or rest of life.
Substantial means more than minor or trivial

Who has obligations?



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- Employers
 - Employment agencies
- Services and public functions
 - Associations (including political parties)
- Premises
- Education (schools/further/higher)

Types of discrimination



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- **Direct discrimination** – different or worse treatment than a person without that particular disability.
- **Indirect discrimination** - a general provision, criterion or practice which causes a disadvantage because of disability
- **Discrimination arising from disability** – different or worse treatment because of something connected with your disability

Types of discrimination



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- **Failure to make reasonable adjustments** – the physical features of an employer's premises, or any provision, criterion or practice of the employer, causes a substantial disadvantage due to your disability, so employer has to make reasonable adjustments
- **Harassment** - upsetting and offensive behaviour related to disability.
- **Victimisation** – bad treatment because complained about discrimination.

Reasonable adjustments



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- Provision – e.g. likelihood of dismissal if can't do job
- Criteria – e.g. ability to carry radiator cabinets
- Practice – e.g. sickness absence management
- PCP can be construed widely
- Physical feature – e.g. stairs
- Substantial disadvantage – must be substantial i.e. more than minor or trivial. If so:
- Duty triggered.

- Employment
 - Not subject to a duty to make reasonable adjustments if did not know or could not reasonably be expected to know
- Goods, facilities and services
 - Duty is anticipatory, so knowledge is not required.

- Depends on:
 - the effectiveness of steps taken in overcoming the disadvantage
 - how practical it is for the employer to make the adjustment;
 - the costs to the employer;
 - the disruption to the employer; and
 - extent of resources and amount already spent;
 - nature of service provider or employer and its size and resources; and
 - availability of financial assistance (e.g. Access to Work)

Pre-employment questionnaire



- Prohibition on questions relating to disability or health in either application form or interview
- Until job offer (or placed in a pool of successful candidates pending job availability)
- Exceptions:-
 - to make reasonable adjustments to interview process;
 - find out if someone capable of undertaking a capability test (e.g. fitness)
 - anonymous monitoring purposes
 - occupational requirement
 - national security
 - requirement that able to carry out function ‘intrinsic to job’

Questions



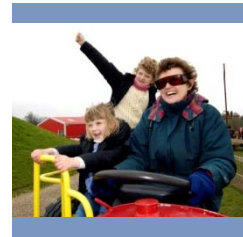
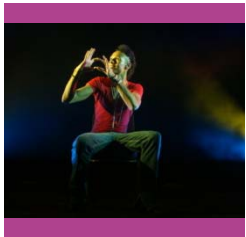
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- Any questions?



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Case Studies



Case Study 1



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- Beryl is hard of hearing, and wears hearing aids which help her to hear better. She works in Mob4U call centre, fielding phone calls from customers.
- She is starting to find it difficult to hear people on the phone. She finds that an amplifier fixed to the phone helps her to hear customers better.
- Is this a reasonable adjustment?

Case Study 2



- A wheelchair user, Markus, wanted to open a bank account with Rich Bank.
- The local branch is in a listed building which does not have a ramp to allow wheelchair users to enter the building.
- Rich Bank offered to allow a member of staff to come outside and open the bank account for Markus there, but Markus wants access to the building.
- Should Rich Bank install a ramp?

Case Study 3



- A Deaf BSL user, Mohammed, has worked for Posh Hotel for 7 years. He cannot understand written English.
- He was recently dismissed because he had taken free food from the staff canteen, against company policy.
- It transpires that he had never understood company policy because it had never been translated into BSL for him.
- Is it reasonable to have company policies translated into BSL? What factors should be taken into consideration?
- Could the dismissal be challenged? Why?

Case Study 4



- A family of Deaf BSL users went to the cinema to watch 'Beauty and the Beast' with subtitles as a birthday treat for the twins, Shona and Rhona.
- When they arrived, they were informed that the screening was cancelled.
- The twins were very disappointed as they had been looking forward to watching the film.
- Has the cinema failed to make reasonable adjustments?

Questions



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- Any questions?