

'OUR RIGHT TO STAY IN WORK!'

Making reasonable
adjustments for
disabled teachers





FOREWORD

BY NUT GENERAL SECRETARY, DOUG McAVOY

The personal story included in this document of a disabled teacher sets out her demand that, “we fight for our rights to stay in work”.

Disability must not prevent teachers from teaching. Every teacher is an asset. No teacher’s skills and experience should be lost from the education service simply because of disability. Disablement must be met by enablement.

The NUT’s guidance is intended, not only to protect the civil rights of disabled colleagues, but also to ensure that the children and young people in our schools can benefit from their commitment and professionalism as teachers.

DOUG McAVOY
General Secretary
National Union of Teachers

INTRODUCTION

Disabled teachers are an essential resource. They are role models for disabled pupils. Like other teachers, they are a valuable source of experience and expertise. Disabled adults in our schools help to prepare all students for life in a diverse society.

Disabled teachers make up only 1 in 100 teachers. With support, this figure could be improved to 1 in 10. Social and physical arrangements are the biggest barriers to full participation by disabled people in teaching. This guide, therefore, is aimed at encouraging LEAs and schools to take practical steps to overcome the barriers faced daily by disabled teachers.

Most NUT cases regarding the Disability Discrimination Act 1995 are concerned with teachers who become disabled during their careers, rather than with those whose disabilities prevent them from becoming teachers. As well as recruiting to teaching more disabled persons, the NUT wants schools and LEAs to find practical ways of retaining those who become disabled whilst in the profession.

Disabled teachers should not be treated as an undifferentiated group. Reasonable adjustments need to be made in discussion with each teacher, taking into account specific needs. This guidance, therefore, cannot cover every reasonable and necessary adjustment.

In the guidance, the NUT outlines the legal requirements of the DDA, explains the duty of 'reasonable adjustment' and gives real examples of its application.

The NUT is committed to equality for disabled teachers and pupils. The NUT has negotiated many examples of 'reasonable adjustments', which have enabled teachers to remain in the profession. Contact your regional office or, in Wales, the NUT Wales Office, NUT Cymru, for advice on specific cases.

WHAT IS THE DISABILITY DISCRIMINATION ACT (DDA)?

The requirements of the DDA are being introduced in three stages:

- since 2 December 1996, it has been unlawful for service providers to treat disabled people less favourably for a reason related to their disability;
- since 1 October 1999, service providers have had to make "reasonable adjustments" for disabled people, such as providing extra help or making changes to the way they provide their services; and
- from 1 October 2004, service providers may have to make other "reasonable adjustments" in relation to the physical features of their premises to overcome physical barriers to access.

EMPLOYMENT PROVISIONS IN PART II OF THE DDA

The employment provisions of the DDA, which came into force on December 2 1996, are set out below.

- Employers must not unjustifiably discriminate against current or prospective employees with disabilities, or those who have had disabilities in the past. This applies to all aspects of work including recruitment, terms and conditions of service, promotion, training and the dismissal process; and
- employers may have to make reasonable adjustments to their employment arrangements or premises if these substantially disadvantage a disabled employee compared to a non-disabled person.

Disabled employees or prospective employees have the right to complain to an Employment Tribunal if they believe the employer has:

- unlawfully discriminated against them; or
- refused to make reasonable adjustments.

If a complaint is upheld, the Tribunal may recommend that an employer takes appropriate action, such as making an adjustment, or order an employer to pay compensation.

It is important that members obtain advice at an early stage. Cases may only be pursued through an Employment Tribunal within 3 months of the alleged discriminatory act.

Staff covered by the employment provisions

In mainstream schools, the LEA is the employer.

Other educational establishments:

- Where there are 15 or more employees at a voluntary aided, foundation and foundation special school, the governing body is responsible for complying with the employment provisions of the DDA for both existing and prospective employees at the school. Therefore, the governing body is solely accountable to Employment Tribunals for decisions on the employment of disabled people.
- Governing bodies in schools in EAZ areas, and the LEA of pupil referral units, are covered by Part III of the DDA.
- If a nursery is attached to a school, the governing body is responsible for complying with the DDA provision. Where a school is a stand-alone establishment and not attached to any school, the LEA is responsible for staffing matters.

Issues to consider in order to avoid discriminating against prospective employees

Governing bodies and LEAs must not discriminate against disabled people in:

- job advertisements;
- the application process;
- the selection criteria used;
- the interview procedure;
- the terms of employment offered; or
- by deliberately not offering a disabled person the job.

Issues to consider in order to avoid discriminating against existing employees and those who become disabled or who have a disability which worsens

Governing bodies must not discriminate against existing disabled employees in any aspect of their employment training including:

- terms and conditions of employment;
- opportunities for promotion;
- career development or training; or
- dismissal proceedings.

If an existing employee becomes disabled or an employee has a disability which worsens, the governing body should consult the person about their needs and, if the employee has a progressive condition, what effect the disability may have on future employment.

The Act applies to the whole of the United Kingdom. The employment provisions apply both to community schools and to voluntary aided, foundation or foundation special schools where the governing body is the employer. In addition to maintained schools, independent schools, City Technology Colleges and non-maintained schools are covered by the employment provisions in the Act and by provisions on the rights of access to goods, facilities and services where they provide non-educational services.

WHAT IS THE REASONABLE ADJUSTMENT DUTY?

LEAs and governing bodies may have to make reasonable adjustments to their employment arrangements or premises so that a disabled employee or prospective employee is not at a disadvantage compared to a non-disabled person. LEAs and governing bodies must consider the need to make reasonable adjustments at every stage of the employment process.

Whatever strategy is used, it is vital that schools and LEAs are encouraged to explore with disabled teachers the help they need and seek specialist advice from relevant agencies on the equipment and support that can be made available. Any assessment of teachers' needs within the school should closely involve the individuals and be a multi-agency endeavour.

LEAs will not be required to make adjustments:

- if the disabled person only experiences a minor disadvantage; or
- if they do not know that a person has a disability.

In deciding whether an adjustment is "reasonable", Employment Tribunals will consider the following factors:

- How much an alteration will improve the situation for the disabled employee or prospective employee;
- how easy it is to make the adjustment;
- the cost of the adjustment, both financially and in terms of the disruption it will cause;
- the extent of the employer's financial or other resources; and
- financial or other help that may be available.

Financial assistance may be available from the Access to Work programme or from a voluntary body. Of course, many adjustments may involve little or no financial cost. See Appendix Three for more details on Access to Work.

The NUT believes that local education authorities should provide advice to school governing bodies on the implications of the DDA for schools. LEAs themselves should have to examine their practices. It will be important for LEAs to distinguish for schools responsibilities which are directly those of the governing bodies and LEA responsibilities.

LEAs have no specific power to keep back money to pay for necessary works required by the DDA which might not easily be afforded by schools but they are permitted, however, to retain a general contingency fund of up to 0.1 per cent of their overall budget. This could be used to enable schools to meet the requirements of the DDA.

LEAs must pay for "capital spending" and the matters concerned are set out in LEAs fair funding schemes. Other matters must be met from school's delegated budgets but the LEA might agree to meet them from its contingency budget instead.

REASONABLE ADJUSTMENTS IN PRACTICE1

Introduction

It is impossible to anticipate every possible reasonable adjustment that can be made. The NUT, however, has a notable track record in negotiating reasonable adjustments for disabled teachers. These are outlined below as examples of ways that disabled teachers can be helped to remain in the profession.

Your Regional office or the NUT Wales Office, NUT Cymru, can give you advice on individual cases.

I. PREMISES

- Altering premises, e.g. widening a doorway, providing a ramp, stair-climbing chairs or non-slip flooring, moving classroom or corridor furniture, altering lighting, or providing parking spaces for disabled drivers

CASE STUDIES

Lagging of classroom walls for a teacher who had hearing impairments, thereby reducing the amount of resonance

Classrooms carpeted and roofs lowered to dampen background noise for hearing-impaired teacher

Induction loops fitted for hearing-impaired teacher

Provision of space for physiotherapy

Accessible toilets provided on the ground floor for a teacher with Reynaud's syndrome

Providing access to the staff room via ramps and new doors to improve access for teachers who is a wheelchair user

Using colours effectively, for example to signal where certain features can be found within the premises

Provide visual information by distinguishing floors, walls, ceilings and doorframes using contrasting colours or lights and dark tones of the same colour

Allocating a well-heated room for a teacher with Reynaud's syndrome

Allocating a room with lower display boards for a teacher with short stature, short limb length, and curvature of the lower arm. Door handle height needs to be considered, particularly if working in a reception or nursery class, as often doors have two handles including one for solely adult use. The top handle would need to be out of reach to young children but low enough for the disabled teacher.

Propping open heavy doors

Provision of automated doors

Provision of more ramped areas, including ramped access to the staffroom

Provision of ramped access classroom at new build stage

Provision of reserved parking space

II. REALLOCATION OF DUTIES

- Allocating some duties to another employee, e.g., asking a non-disabled teacher to assemble a slide projector and screen for a disabled teacher, providing ancillary support in the classroom, arranging supervision duty rosters to take account of mobility, e.g. library supervision may be more appropriate than playground supervision for a disabled teacher

CASE STUDIES

Spelling tests to be marked by another year group teacher for a dyslexic teacher

III. TRANSFERRING THE PERSON

- Transferring the person to fill an existing vacancy, e.g., if a teacher becomes disabled and there is no reasonable adjustment which can enable them to continue in their post they might be considered for another post. In the case of LEA maintained schools, the LEA may be able to recommend the teacher for a suitable vacancy at another school.

IV. ALTERING WORKING HOURS

- Altering working hours, e.g., allowing an employee who becomes disabled to work part-time or to job-share or making adjustments to the timetable

CASE STUDIES

An amended timetable for a teacher with cerebral palsy, with guaranteed non-contact periods at times during the day when a rest is needed

Organising a phased return to work, or a return to work on part-time hours

V. CHANGING THE PERSON'S PLACE OF WORK

- Changing the person's place of work, e.g., ensuring that a teacher with mobility difficulties which prevents them from using the stairs can hold all of their lessons in classrooms on the ground floor

CASE STUDIES

Relocation of a classroom to a ground floor site for a teacher with mobility difficulties

A teacher remaining in the same classroom for all lessons, following surgery for breast cancer. This lessened the need for her to carry books and equipment, and prevented her from being jostled or knocked by pupils and their bags at changeover times

A teacher who is a wheelchair user being timetabled in the same room, on the ground floor, near to the lift and the disabled toilet

VI. ABSENCES

- Allowing absences during working hours for rehabilitation, assessment or treatment, e.g., allowing an employee who becomes disabled time off work to receive physiotherapy or other treatment

VII. RECRUITMENT

CASE STUDIES

An LEA can make a positive statement in its advertisements, such as "Disabled applicants who meet the requirements of the post will automatically be short-listed". An increasing number of organisations are securing the 'Two Ticks' symbol, awarded by the Employment Service. This demonstrates, amongst other things, that they have a policy of assuring an interview to suitably qualified disabled applicants. The NUT recommends the use of such positive action by LEAs and governing bodies.

Schools and LEAs may also want to consider, on the application form, asking applicants, "Do you define yourself as disabled?" Applicants should then be asked about any access requirements that they may have. These suggestions are in line with TUC recommendations. The TUC recommends that the question should ask, for example, which format the applicant wants to receive information in, not about the applicant's impairment. This may well be regarded as intrusive.

There should not be questions related to health on the application form as all applicants already will have undergone a medical examination when they were prospective entrants to teacher training.

The number of disabled applicants and staff can be monitored, in the same way as the ethnicity and gender of applicants.

VIII. ETHOS

- Ensure that the LEA and whole-school equal opportunities policy includes strategies to tackle disability discrimination. The NUT has produced a model equal opportunities policy for the employment of disabled teachers (see Appendix One)

IX. FUNDING

CASE STUDIES

Access to Work has provided money for changes to the physical accessibility of school premises and ongoing adjustments for a teacher with cerebral palsy.

Access to Work in one local authority funds adaptations for new disabled employees

In one LEA, two budgets are held centrally by the Employee Relations group. The Disabled Salaries Budget and the Disabled Adaptations Budget are designed to assist establishments fund adjustments and also access external funding through the Employment Service. Funding has provided:

- management allowances to facilitate gradual return to work
- digital hearing aids
- purchase and repair of specialist voice equipment
- support a reduction in teaching contact time
- financed support workers
- provided support to facilitate re-training
- provided specialist computer training

See Appendix Three for more details on Access to Work.

X. TRAINING

- Supplying additional training, e.g., training in the use of particular pieces of equipment unique to the disabled person or re-training a teacher in a new subject area in order for them to continue teaching.
- A programme of in-service training should be provided for teachers, support staff and governors to help them move towards disability equality.

XI. EQUIPMENT/COMMUNICATION

- Acquiring or making changes to equipment, e.g. providing an induction loop in the school hall and other assembly areas, providing magnifying facilities, a pager that vibrates, a visible fire alarm system, or an adapted telephone

CASE STUDIES

A lap top computer for a teacher with dyslexia to type up reports and project words up onto a slide in the classroom

Hands -free telephone provided

Provision of the equivalent of a radio mike that might be used by a dancer or singer in order that a teacher with voice difficulties could work with a small travelling amp with students

An amplification system was adopted for a teacher who experienced voice loss. This was designed and adopted by a local hospital.

Provision of a special hearing aid for a teacher with a hearing impairment, paid for through Access to Work after NUT negotiation

Provision of high quality digital hearing aids

Provision of a special chair to enable a teacher with a spine problem to continue in teaching

Provision of a computer and projector for a teacher with Reynaud's syndrome and access to suitable software and training

A gun-tacker that has a loose action that does not require lots of wrist pressure for a teacher with short stature, short limb length, and curvature of the lower arm

Ergonomically designed chairs

Height adjustable chairs

Provision of a right-handed keyboard

The installation of a telephone for a teacher who worked in an outlying classroom in a special school where a number of pupils had behavioural problems. The teacher suffered from multiple sclerosis and felt isolated, and in order to assist her, the school supplied a telephone

The provision of a splint, together with a stool, for a teacher with arthritis of the wrist. This equipment enabled the teacher to rest from time to time. The splint was of a special design and needed to be hygienic given the nature of the post

An LEA provided a trolley for helping transport the books and materials of a teacher who had a problem with her knees. In addition, a ground floor room was provided for the teacher

A powered wheelchair provided for work

A lap top computer provided linked to a 34" monitor and a printer. The monitor could be used instead of a black/white board, and the printer enabled the production of worksheets. The 34" monitor could also show schools' programmes that had been previously recorded.

XII. PEOPLE

- Providing a reader or signer, for example, reading information to a visually impaired person at particular times during the working day

CASE STUDIES

Providing British Sign Language training for staff and students

Visits from the British Deaf Association to school assemblies

Teachers of deaf pupils working alongside mainstream teachers

A personal support worker to assist a teacher with cerebral palsy in school

Personal assistance (PA) support in the classroom, funded by the LEA.

XIII. MENTAL HEALTH ISSUES

- Employers have to make 'reasonable adjustments' where it would remove a substantial disadvantage from an employee or applicant with a mental health problem. The needs of individuals should be addressed on a case-by-case basis.
- Possible adjustments include: agreeing a change in hours or working patterns, different supervision, additional training or support, adjustment to the physical environment, or changes to aspects of the job. Not all adjustments will be feasible in all jobs or types of organisation. On a less formal level, it is important to remember to include colleagues with mental health problems in all team discussions, communications and events.

REASONABLE ADJUSTMENTS: A TEACHER'S EXPERIENCE

The Disability Discrimination Act (DDA) does not provide definitive examples of reasonable adjustments. This means that individual disabled teachers have to fight for their particular needs to be accommodated. This can be quite difficult to do.

Set out here is one teacher's personal statement. It shows the difficulties she has faced in achieving her right to teach. The teacher is real as are her experiences. At her request her identity has been disguised.

Feeling vulnerable

In order to be protected by the (DDA), teachers must tell their employers of their disability. I have found that this has led to me feeling very vulnerable at times. In order to prove my access needs it has been necessary to tell my headteacher about the effects of my impairments. At times she has not believed me, suggested that I am too ill to continue in work and used my personal circumstances to try to manipulate me politically and professionally.

Access to Work

Up until very recently I have found Access to Work to be an excellent source of support in the workplace. It is very bureaucratic. My consultant first referred me to it but it took five months before anything was in place. It operates in three-year cycles. At the beginning of my last three-year cycle it took nine months to get everything in place. Over the years, they have paid for much of the ramped access in my school, equipment, and a support worker.

I have been subject to numerous assessments and reviews in order to gain and maintain this level of support. A recent blip in funding arrangements meant that I am now discovering first-hand what many disabled people find in regard to Access to Work, that it can bring another level of insecurity.

Negotiating reasonable adjustments

This is something that I have found very hard to do. I have often had to articulate my needs at a time when I feel very emotionally upset by changing physical circumstances. I have had to face an unsympathetic headteacher who has often resisted my attempts to make the necessary provision in order to help me stay in work. The school has been reluctant to pay its share of the Access to Work money. There have been attempts to intimidate me and bully me into staying quiet about my needs. I once found myself in dispute with my headteacher who expected me to be available for cover during my rest periods. She had gone back on agreements we had made about my timetable and was suggesting that I took another pay cut. It took intervention from the NUT at branch and regional levels to make her stick to the original agreement.

Other useful provision

I currently benefit from being on the middle rate of Disability Living Allowance (DLA) for my personal care needs and the higher rate for my mobility needs. The personal care component now covers my means tested contribution to my personal care costs. These are now provided through the local council's Direct Payments scheme. This has enabled me to employ a home carer/support worker directly. I have thus been able to solve some of the difficulties faced by many disabled people, including myself, of being able to find quality, reliable care.

It has always been a bit of a nightmare trying to recruit the support worker for school. Access to Work say that the employer should employ somebody for the disabled person, however, my school has been reluctant to co-operate in this

process. Access to Work provided support workers through an agency who seemed to find it difficult to recruit workers and pay them properly. Access to Work reviewed the funding arrangements so thoroughly when I became the employer that support arrangements almost stopped altogether.

Through direct payments, I am able to have much more control over who helps me. However, this does add a whole new level of bureaucracy, working out national insurance contributions, tax deductions etc.

There are many reasonable adjustments that schools can make for disabled teachers. My experience shows that many positive steps can be taken. However, it does take a great deal of clarity and determination on the part of the disabled teacher to ensure that their access needs are met. The NUT has supported me at branch and regional level in order to help me remain in work. It is not an easy process. My access needs, employer's priorities and Access to Work rules change continually. It is sometimes very hard to keep up with what's going on.

Many teachers who find themselves disabled may find the process too much to deal with. However, I think it is vital that we fight for our right to stay in work and use the concept of reasonable adjustment to make sure that our needs are met.

The NUT clearly has a role to play in supporting members in asking for adjustments. We need to make sure that teachers know to whom they should turn as they face the challenge of their own impairments, reluctant employers, and unwieldy bureaucratic support systems. NUT members, school representatives, local, regional and national officers need to be kept informed of what is possible for disabled teachers in school."

REFERENCES AND FURTHER RESOURCES

National Union of Teachers (NUT)

www.teachers.org.uk

The Implications of the Disability Discrimination Act 1995 for Schools, LEAs and Governing Bodies: NUT Guidance

Toolbag for the Employment of Disabled Teachers

'Within Reach 3' – NUT/Scope evaluation of the Schools' Access Initiative

Department for Education and Skills (DfES)

www.dfes.gov.uk

DfEE Circular 20/99: What the Disability Discrimination Act means for schools and LEAs

Access Association

Secretary: Sue Fox

Access Officer

Walsall MBC

Civic Centre, Darwall Street, Walsall WS1 1TP

Tel/textphone: 01922 652010

Fax: 01922 614210

e-mail: foxs@walsall.gov.uk

Supports access professionals through the exchange of knowledge and experience.

Centre for Accessible Environments

Nutmeg House

60 Gainsford Street, London SE1 2NY

Tel/minicom: 020 7357 8182

Fax: 020 7357 8183

e-mail: info@cae.org.uk

Website: www.cae.org.uk

Provides technical information, training and consultancy in making buildings accessible to disabled and older people and advice on technical aspects of implementing the requirements of the DDA.

Disability Rights Commission

DRC Helpline

FREEPOST

MIDO 2164

Stratford-upon-Avon CV37 9BR

Telephone: 08457 622 633

Fax : 08457 778 878

Textphone: 08457 622644

e-mail: ddahelp@stra.sitel.co.uk

Website: www.drc-gb.org

The DRC Helpline provides information and advice about all aspects of the DDA, as well as signposting specialist organizations where necessary. In addition, it can offer good practical advice on the employment of disabled teachers.

Disability Living Foundation

380-384 Harrow Road
London W9 2HU
Tel: 020 7289 6111
Fax: 020 7226 2922
e-mail: advice@dlf.org.uk
Website: www.dlf.org.uk

Provides information on aids and equipment that help disabled people with their daily lives. It administers a comprehensive database of products that can be used by disabled people in public buildings.

Employers' Forum on Disability

Nutmeg House
60 Gainsford Street
London SE1 2NY
Tel/minicom: 020 7403 3020
Fax: 020 7403 0404
e-mail: efd@employers-forum.co.uk
Website: www.employers-forum.co.uk

Membership organisation which supports employers to work with disabled people as employees, customers and partners.

JMU Access Partnership

224 Great Portland Street
London W1N 6AA
Tel: 020 7391 2002
Fax: 020 7387 7109
e-mail: jmu@rnib.org.uk
Website: www.rnib.org.uk/jmu

Provided jointly by The Guide Dogs for the Blind Association and RNIB, a pan-disability consultancy working to provide inclusive environments. Services include access audits, design appraisals, education and training, information, electronic way finding, publications and research.

RADAR

12 City Forum
250 City Road
London
EC1V 8AF
Tel: 020 7250 3222
Minicom: 020 7250 0212
e-mail: radar@radar.org.uk
Website: www.radar.org.uk

Provides information on the needs of disabled people and consultancy services.

Royal National Institute for the Blind (RNIB)

224 Great Portland Street

London

W1N 6AA

Tel: 020 7388 1266

Fax: 020 7388 2034

e-mail: helpline@rnib.org.uk

Website: www.rnib.org.uk

Help, advice and support for people with serious sight impairments and offers consultancy on issues such as colour contrast.

Royal National Institute for Deaf People (RNID)

19-23 Featherstone Street

London EC1Y 8SL

Tel: 020 7296 8000

Minicom: 020 7296 8001

Fax: 020 7296 8199

e-mail: helpline@rnid.org.uk

Website: www.rnid.org.uk

Provides consultancy on the environmental needs of people with hearing impairments.

Disability Equality in Education (DEE)

Unit 4Q,

Leroy House,

436 Essex Road,

London N1 3QP.

Tel: 0207 359 2855.

Skill UK

Chapter House

18-20 Crucifix Lane

London SE1 3 JW

Publishes: *Employing Disabled Teachers: A Good Practice Guide for Schools*

Mind out for Mental Health

49 Southwark Street,

London SE1 1RU

Tel: 020 7403 2230

Fax: 020 7403 2240

Email: mindout@forster.co.uk

More information on the Department of Health campaign is available at www.mindout.net

APPENDIX ONE

A MODEL EQUAL OPPORTUNITIES AGREEMENT ON THE EMPLOYMENT OF DISABLED TEACHERS

The parties to this agreement are committed to equal opportunities for teachers regardless of whether or not they have a physical, mental or sensory impairment. This principle will apply to the operation and implementation of all policies, including those not specified in this agreement.

Background

- The Disability Discrimination Act 1995 (DDA) imposes duties on employers of 15 or more employees.
- DFE Circular 13/93 gives guidance on the physical and mental fitness to teach of teachers and of entrants to initial teacher training. This circular says that “the employment of disabled teachers can make an important contribution to the overall school curriculum, in terms of raising the aspirations of disabled pupils and educating non-disabled people about the reality of having a disability”.
- Circular 13/93 goes on to say that a person’s physical capacity to manage his or her work may be enhanced with appropriate technical or human support or advice and institutional arrangements.
- Regulation 8 of the Education (Teachers) Regulations 1993 requires the LEA or employer to be satisfied as to the health and physical capacity of all teachers who are to be appointed to an LEA-maintained school, self-governing (grant maintained) school, non-maintained special school or a further education institution maintained by an LEA or within the FE sector.
- DfEE Circular 3/97 gives guidance on what the DDA means for schools and LEAs. It points out that employers who have, and follow, an equal opportunities policy which covers disability are likely to have that counted in their favour by a tribunal if a complaint is made. The Circular gives examples of adjustments which governing bodies and LEAs might reasonably make under the terms of the DDA.

Recruitment

- Recruitment shall be only on the basis of candidates’ abilities, and recruitment material shall be accessible.
- Impairments shall not of themselves justify the non- recruitment of candidates. Where candidates have special employment needs, due account shall be taken of the feasibility of adaptations to buildings, equipment, work organisation and other aspects of the working environment, and the assistance which may be obtained from the Employment Service’s Access to Work scheme in making such adaptations.
- Such adaptations which affect other employees, whether disabled or not, shall only be introduced after due consultation with those employees and their union representatives.
- The advice and assistance of the local Placement Assessment and Counselling Team shall be used in recruiting disabled teachers.

- Job descriptions and person specifications shall be drafted to ensure that they do not exclude disabled people. The place where the interview takes place and the conduct of the interview should be fully accessible to the candidate.
- Disabled applicants who meet the selection criteria for the post will be guaranteed an interview. (DfEE Circular 3/97 indicates in paragraph 42 that it is good practice to guarantee an interview to all suitably qualified disabled applicants.) Advertisements of vacancies shall indicate the main elements of this policy, including the interview guarantee.

Retention

- The LEA is committed to the central retention of funding in order to facilitate the employment of disabled teachers.
- As far as possible, all teachers who become disabled shall be retained in suitable employment.
- Teachers who develop impairments shall be offered paid 'Disability Leave', during which their working environment may be adapted to enable them to remain in employment. The length of such leave would be defined by the length of time taken to make the environment accessible.
- To retain teachers with impairments, the advice and assistance of the local Placement Assessment and Counselling Team shall be sought. The utilisation of the Employment Service's Access to Work scheme, including adaptations to the working environment, shall also be investigated.
- Sympathetic consideration should be given to flexible working patterns, shorter hours, part-time work, phased return to work, job-sharing, team teaching or change of workplace if appropriate. Headteachers, governors and those with management responsibilities in the school should be aware that depression following the onset of an impairment may lead employees to have unrealistically low estimates of their future abilities.
- Temporary or fixed-term contracts should not be misused in the employment of disabled teachers.

Career Development

- All teachers shall equal rights to training, promotion and other aspects of career development. Special employment needs shall not justify the failure to train or promote any teacher.

Other Matters

- The facilities of a school, including toilets, staff rooms and canteens, shall not obstruct employees in the conduct of their duties and responsibilities.
- All health and safety procedures, including the assessment of risk, shall take into account the needs of disabled employees.
- Harassment of disabled teachers shall be a serious disciplinary offence.
- All procedural agreements shall apply equally to all teachers, regardless of whether or not they are disabled. In particular, a teacher's impairments shall not be a valid reason for selection for redundancy, discipline, or for failing to deal adequately with grievance.

An 'Action Plan'

- An Action Plan on the employment of disabled teachers shall be developed by employers - on which teacher organisations shall be consulted - for the implementation of this policy.

The operation of Action Plan will be monitored and the results shall be published by the LEA and by schools in their annual reports to parents.

Training for governors and INSET for teachers should convey an awareness of the discrimination faced by disabled people and the provisions of this agreement.

All employees shall be informed of this agreement by the management. As necessary, the parties to this agreement shall consider its operation and agree revisions to it. Any employee who considers that s/he has suffered, or is suffering, from a failure to implement this policy, or any other discrimination based on her/his impairment may make a complaint which shall be dealt with through the existing grievance procedure.

APPENDIX TWO

THE DEFINITION OF DISABILITY

The DDA defines a disabled person as someone who has

“a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities”.

An impairment has a long-term effect if it has lasted or is expected to last for at least 12 months or for the rest of the life of the person concerned.

Most of the cases that the Union deals with under the DDA concern people who have become disabled during their teaching career.

The definition covers:

- people with physical, sensory, or mental impairments, including learning disabilities;
- people with progressive conditions (such as cancer, multiple sclerosis, muscular dystrophy, and HIV infection) from the moment the condition leads to an impairment which affects the ability to carry out normal day-to-day activities if the effect is likely to become substantial eventually;
- people with severe disfigurements; and
- people who have had a disability in the past, for example someone who has suffered a nervous breakdown and has since recovered. People who have had disabilities in the past will need to show that, at the relevant time in the past, they had a physical or mental impairment which had a substantial and long term adverse effect on their ability to carry out normal day-to-day activities within the meaning of the DDA.

The definition does not cover:

- people addicted to alcohol or nicotine, or any other substance (other than as a result of the substance being medically prescribed);
- people with seasonal allergic rhinitis (e.g. hay fever) unless it aggravates the effect of another condition; or
- people with a tendency to physical or sexual abuse of others.

APPENDIX THREE

ACCESS TO WORK

Help for disabled workers and their employers

Access to Work is a Government scheme that was introduced in 1994, bringing together a range of services available to people with disabilities and their employers.

What Access to Work Offers :

- Communicators for people who are deaf or have a hearing impairment.
- A part-time reader or assistance at work for a blind worker.
- Equipment or adaptations to existing equipment to suit individual needs.
- Adaptations to a car, or taxi fares or other transport costs for someone who cannot use public transport to get to work.
- Alterations to premises or to the working environment so that an employee with a disability can work there.

Access to work is intended to be flexible to suit each person's needs in their particular job. It may be possible to have help with items not included in the above list.

How to find out more

The Access to Work Adviser can be contacted through the local Job Centre, can advise on the different kinds of help available under Access to Work. The AtW adviser is part of an Employment Service Disability Service Team.

The AtW Adviser can also provide advice to employers on recruiting people with disabilities.

The NUT's Role

The NUT, together with the TUC and disability organisations, campaigned to save Access to Work when it was frozen in 1995. As a result, the 1996 budget for Access to Work was increased.

The Employer's Contribution

There is a mandatory employer contribution for support for people in employment.

Employers of people already employed when they apply for Access to Work will be expected to meet all costs up to £300 and 20 per cent of costs up to £10,000 for the first year. The Employment Service will meet the remaining 80 per cent of costs between £300 and £10,000 and all costs above £10,000.

The £300 threshold does not apply in the second and subsequent years.

The Arrangements in Detail

Unemployed disabled people: 100 per cent of approved costs to be met by Access to Work.

Travel to work costs: 100 per cent of approved costs to be met by Access to Work.

Communicator support at interviews: 100 per cent of approved costs to be met by Access to Work.

Other support for disabled people in employment: Year 1 AtW will meet up to 80 per cent of approved costs above a costs threshold of £300 and 100 per cent of all such costs in excess of £10,000.

Years 2 & 3 AtW will meet up to 80 per cent of approved costs and 100 per cent of all such costs in excess of £10,000. (There is no £300 costs threshold in years 2 & 3).

Where a commitment is made to provide ongoing Access to Work support, this will be for a maximum of three years. The Employment Service will review cases requiring longer-term support.

1 Acknowledgements to DfEE (1999) and Skill (2000)

