



# ADHD and Reasonable Adjustments

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# EQUALITY ACT 2010

- Defines disability as “a physical or mental impairment” which “has a substantial and long-term adverse effect...on the carrying out of normal day-to-day activities”
- Includes ADHD
- “substantial” means more than minor or trivial and as “having some substance”
- “long-term” means having lasted 12 months or is likely to
- “reasonable adjustments” is not defined; each case will depend on its own facts

# A paradigm case

- *Northumberland Tyne & Wear NHS Foundation Trust v Dr G*, Appeal No: UKEAT/0048/13/BA, 29 January 2014

# Peer-reviewed literature

- “*Occupational issues of adults with ADHD*”, Gudjonsson, Young et al, BMC Psychiatry 2013, 13:59

# *Northumberland v Tyne & Wear v Dr G:* findings

- Must be knowledge of ADHD, actual or constructive
- An attempt must be made to identify (a) what the demands of the person's work are; and (b) what steps should be taken and when to reduce demands
- Must be concrete steps as opposed to consultation or assessment
- Caution should be exercised in blindly following policies or guidance
- Assessments should be carried out timeously but delay does not amount to failure to discharge duty

# Section 20, EA 2010

- The duty comprises three requirements to take such steps as are reasonable to avoid the disadvantage where
- A provision, criterion or practice of the person upon whom a duty is imposed puts a disabled person at a substantial disadvantage
- A physical feature has the same effect
- The provision of an auxiliary aid would prevent substantial disadvantage, reasonable steps must be taken to provide it

# Schedule 2, EA 2010

- References to “disabled person” are references to disabled persons generally
- Defines that in relation to each requirement, the relevant matter is the provision of the service or the exercise of the function by the person upon whom the duty is imposed
- Defines “being placed at a substantial disadvantage” in relation to the exercise of a function
- Provides that in the case of service-provider nothing is required to be done that would fundamentally alter the nature of the service, trade or profession.

# Reasonable Adjustments

(Gudjonsson, Young et al)

- *Attention and impulsivity:* private office/quieter room/positioning in office, flexi-time arrangement, headphones, regular supervision, buddy system.
- *Hyperactivity/restlessness:* allowing productive movements at work, encouraging activity, structured breaks in long meetings.
- *Disorganisation, time management, and memory problems:* Provide beepers/alarms, structured notes, agendas, regular supervision with frequent feedback, mentoring, delegating tedious tasks, incentive/reward systems, regularly introducing change, breaking down targets and goals, supplement verbal information with written material.