

Probation Circular

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DISABILITY MONITORING

PURPOSE

To advise areas on:

- The Disability Discrimination Act 2005 – the Public Duty to promote Disability Equality
- Monitoring arrangements for disabled employees and offenders.

ACTION

Chief Officers are required to:

- Ensure that by the 4th December 2006 a Disability Equality Scheme is developed and implemented; showing evidence of the genuine and influential involvement of disabled people. Monitoring arrangements in regards to the action plan also need to be in place
- Ensure that the monitoring form (Annex A) is implemented in your local area and monitoring arrangements are in place for existing and new employees and offenders by the 4th December 2006.
- Cascade the information to all staff to implement - Effective implementation to promote disability equality will require areas to deliver disability equality training.

SUMMARY

To comply with the Disability Discrimination Act 2005 (DDA) local areas must develop a disability equality scheme (DES) by the 4th December 2006 with the aim of promoting disability equality throughout the organisation.

The scheme requires the adoption and understanding of the social model of disability. Within the DES it must evidence the genuine and influential involvement of disabled people at all stages. The scheme must state how information will be collected to determine how an organisation is performing in achieving disability equality in every aspect of its work.

It is hoped all Case management systems will be upgraded by December 2006 to enable the information gathering for offenders.

Areas will need to adapt their existing HR reporting functions to include disabled employees.

RELEVANT PREVIOUS PROBATION CIRCULARS

N/A

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TO:

Chairs of Probation Boards
Chief Officers of Probation
Secretaries of Probation Boards

CC:

Board Treasurers
Regional Managers

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ATTACHED:

Annex A – Sample Form
Annex B – Guidance for Disability
Monitoring
Annex C – Equality Impact
Assessment

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1. Background to the Disability Discrimination Act 2005

- 1.1 In April 2005 the Disability Discrimination Act (DDA) 2005 was passed by Parliament, amending or extending existing provisions of the DDA 1995.
- 1.2 From **4 December 2006**, the Act will be extended to place a general duty on all public sector authorities to promote equality of opportunity for disabled people. This will affect all public bodies – from local councils to government departments. Including Probation and Prisons (including private Prisons).
- 1.3 The Disability Discrimination Act 2005 has extended the scope of legal protection and created a set of duties for public bodies to promote disability equality and eliminate the structural discrimination against disabled people. The new duty is known as The Public Duty to Promote Disability Equality.

2. The General Duty to promote disability equality

- 2.1 The basic requirement for a public authority when carrying out their functions is to have due regard to do the following
 - Promote equality of opportunity between disabled people and other people
 - Eliminate discrimination that is unlawful under the Disability Discrimination Act
 - Eliminate harassment of disabled people that is related to their disability
 - Promote positive attitudes towards disabled people
 - Encourage participation by disabled people in public life
 - Take steps to meet disabled peoples needs, even if this requires more favourable treatment.
- 2.2 Staff need to be aware of their personal and organisational responsibilities with regard to the Disability Discrimination Act 2005. This is best achieved by the provision of Disability Equality Training. Disability awareness events are not by themselves adequate.
- 2.3 Within the Disability Equality Scheme organisations must state how they will collect information, how it will inform future action and how disabled people were involved in setting priorities.

3. The Social Model of Disability

- 3.1 The social model forms the foundation of the Disability Discrimination Act 2005 as opposed to the medical model which sees the disability as the barrier. The definition of the social model of disability as defined within the Act as follows:

The poverty, disadvantage and social exclusion experienced by many disabled people is not the inevitable result of their impairments or medical conditions, but rather stems from attitudinal and environmental barriers. This is known as ‘the social model of disability’, and provides a basis for the successful implementation of the duty to promote disability equality.

4. Definition of disability

- 4.1 The DDA defines disability as: “A person who has a physical, sensory or mental impairment which has a long term and substantial adverse effect on their ability to carry out normal day to day activities”.
- 4.2 “Impairment” covers physical or mental impairments and includes sensory impairments, such as those affecting sight or hearing. Examples include:

- Diabetes
- Dyslexia
- Autism
- Asthma
- Arthritis
- Depression
- Incontinence
- Severe disfigurement
- And many other impairments, both visible and invisible.

4.3 “Mental impairment” is intended to cover a wide range of impairments relating to mental functioning, including learning disabilities and mental illness

4.4 “Substantial adverse effect” is not defined other than that it is more than a minor or trivial effect. The requirement that an effect must be substantial reflects the general understanding of disability as a limitation going beyond the normal differences in ability which exist among people.

4.5 “Long term” meaning lasted for 12 months, is likely to last for more than 12 months or for the rest of your life.

4.6 It is very important to be aware that someone who has had a disability which falls within the definition given above is protected by the DDA from discrimination even if they have recovered, or where the condition is controlled by medication. This would cover, for example, someone who has had an episode of mental illness, or someone who has experienced a physical injury which lasted for a certain period.

4.7 If an impairment has had a substantial adverse effect on normal day-to-day activities but that effect ceases, legally it is treated as continuing if it is likely to recur. For example someone who has arthritis, continues to be protected by the DDA, even during periods of remission.

4.8 Substantial adverse effect on "Normal day-to-day activities" means that at least one of these areas must be badly affected:

- Mobility
- Manual dexterity
- Physical co-ordination
- Continence
- Ability to lift, carry or move everyday objects
- Speech, hearing or eyesight
- Memory or ability to concentrate, learn or understand
- Understanding of the risk of physical danger

5. Certain conditions are not regarded as impairments under the DDA:

- Addiction to or dependency on alcohol, nicotine, or any other substance (other than as a result of the substance being medically prescribed);
- Seasonal allergic rhinitis (e.g. hay fever), except where it aggravates the effect of another condition;
- Tendency to set fires;
- Tendency to steal;
- Tendency to physical or sexual abuse of other persons;
- Exhibitionism;
- Voyeurism;
- Tattoos and non-medical body piercing.

6. Implications of the DDA (2005) for Local Areas

- 6.1 Public authorities must develop a Disability Equality Scheme (DES) by the 4th December 2006.
- 6.2 Gathering and using evidence on disability is at the heart of the new duty. It is essential for public authorities to have as clear as possible a picture of how they are currently performing on disability equality to provide the basis for their DES and to chart future progress.
- 6.3 The duty covers all functions and activities, not just employment and service delivery, but budget setting, procurement, partnership arrangements and specifications, regulatory functions and setting the framework in which the organisation will deliver services.
- 6.4 A requirement to look at all the policies and processes which impact upon offenders and employees, not just to respond to offenders and employee's individual needs.
- 6.5 A much stronger requirement not to discriminate against disabled people by introducing a new requirement to **promote** equality of opportunity. This will involve ensuring that areas work to identify and remove organisational barriers that impede access and inclusion so that disabled people receive equality of treatment and opportunity to work towards the influential representation of disabled people at all levels of the organisation in order to work towards the diversity of the community that we serve.
- 6.6 Areas are now required to eliminate harassment and to promote positive attitudes towards disabled people.
- 6.7 The DDA 2005 protects people who may have had a DDA defined disability in the past, but no longer do – someone who suffers discrimination as a result of revealing a previous mental health condition, for example, is protected by the law, regardless of how long ago they had the condition.
- 6.8 Increased powers for the Disability Rights Commission (and the Commission for Equalities and Human Rights when it takes over from the DRC in 2007), who will be able to serve compliance notices on public bodies in order to enforce the provisions of the DDA.
- 6.9 From December 2005 progressive conditions like cancer, HIV and multiple sclerosis will be covered from first diagnosis (Previously this has been from first onset of symptoms).
- 6.10 The amendment to the Act has removed 'clinically well-recognised' from the definition of disability with regard to mental health.
- 6.11 Areas need to be aware that people are covered by the Act even if they are unaware they are disabled as defined by the Act. This means that areas have a responsibility to ensure that all members of staff are aware of what constitutes a disability and what their rights are under legislation; and that safe working practices and systems are in place to ensure confidentiality and compliance with data protection legislation. Staff should be trained on their responsibilities as disability information is counted as personal sensitive data under the Data Protection Act.

7. Promoting Disability Equality and Gathering Information

- 7.1 The Code of Practice supporting the legislation says that gathering and using evidence on disability is at the heart of the new duty. It is essential for public authorities to have as clear as possible a picture of how they are currently performing on disability equality to provide a basis for their Disability Equality Scheme to chart future progress'
- 7.2 The Code of Practice makes it clear that merely gathering statistics is pointless. It will be demeaning for disabled people and could further create prejudice. Disability Monitoring has several important and distinctive

requirements. To establish successful outcomes for disabled people it is necessary to know what success will look like. The legislation requires that everyone involved in this monitoring is told what the purpose of the monitoring is and what will be done with the information given by them. The monitoring is required to be linked to 'measurable indicators of progress towards outcomes' published in DES.

7.3 The following guidance in regards to information gathering applies only to employees and offenders. Areas need to be aware that the statutory duty and associated monitoring applies to all areas of work, such as victims.

7.4 **The only justification for gathering details of impairments is to establish if particular groups of disabled people are not receiving an equal service or not being employed for example.**

7.5 A best practice Disability Equality Scheme (DES) will promote disability equality by:

- Being based on the Social Model of Disability. Using this model will lead to a DES that aims to remove the physical and attitudinal barriers that prevent equal opportunity and outcomes for disabled people. The use of the Medical Model of Disability is demeaning and disempowering to disabled people in that it locates the 'fault' in the persons impairment and concentrates on what is 'wrong with them and helping them to cope'. It has operated in a framework that has led to a tradition of dependency for the disabled person on the charity of others, rather than identifying the societal barriers that prevent equality of outcome, and focusing on their removal.
- Preceded by and show published evidence of the **genuine and influential involvement** of disabled people who will also need to be involved in impact assessments and the future development of DES
- Supported by ownership from the top, and briefing and training for all staff, that involves disabled people. Disability Equality training aims to remove ignorance and prejudice. For effective disability equality training disabled people would be involved in content development and delivery.
- Publishing how the information gathered will promote disability equality
- Developing an action plan that has measurable outcomes and clear lines of accountability. This plan should include remedying the negative consequences for disabled people caused by poor decisions in the past.

8. Duty under the DDA to make reasonable adjustments

8.1 Public bodies have a statutory duty to remove organisational barriers that exclude disabled employees and service users from equal participation.

8.2 The DDA states that the duty to make reasonable adjustments arises 'where a provision, criterion or practice applied by, or on behalf of an employer, or public body, or any physical feature of the premises, places the disabled person at a substantial disadvantage compared with a person who is not disabled'. If a disabled person is at a 'substantial disadvantage' the employer or public body has to take the appropriate steps to make the relevant adjustment. Failure to do so is unlawful and cannot be justified.

8.3 The DDA legislation and Code of Practice give examples of the type of adjustments that would fit the definition of 'reasonable'. These include:

- Making adjustments to the premises
- Allocating some of the disabled persons duties to another person
- Transferring the person to fill an existing vacancy
- Altering the persons hours of work or training
- Assigning the person to a different place of work or training including working from home

- Allowing the person to be absent during working or training hours for rehabilitation, assessment or treatment
- Arranging training or mentoring
- Acquiring or modifying equipment
- Providing all instructions, training or manuals in an accessible form
- Providing a reader, interpreter or support worker

8.4 The provision of reasonable adjustments must **always** require the involvement and agreement of the person involved. Many impairments fluctuate in their severity or are made worse by environmental factors, for example, temperature, light levels or noise. Provision of equipment, for example voice activated software may well require modification to the persons working environment e.g. the provision of a quiet area. Areas will need to take this into consideration in their HR policies.

8.5 Areas need to be aware that if reasonable adjustments are not made in respect of a disabled offender or employee, they are very vulnerable to legal challenge.

8.6 Best practice would suggest that areas should document the reasonable adjustments that are provided to employees and offenders and any other service users. This involves noting requests, status of implementation and outcomes of requests. It is also important to note that some disabled people's impairments may not remain static and the adjustments will need to be continually monitored, reviewed and altered to ensure that they are effective and people's access requirements are being met, and as such records need to be updated.

9. Capturing of Data

Annex A is a sample form that areas need to implement in order to capture the data. It should be noted that this form identifies barriers that disabled offenders and employees face, it does not identify reasonable adjustments, nor the process of their implementation. Areas must be aware that following on from gathering this information (barriers) is the need to develop a process of implementing reasonable adjustments within reasonable time frames. Failure to provide reasonable adjustments is unlawful and can not be justified.

9.1 Offenders

9.1.1 All existing case management systems will be upgraded by the 4th of December 2006 when it is mandatory that all areas are monitoring their disabled offenders. In preparation for this, all Probation Areas will need to ensure initial interviews are designed such that information regarding impairments and barriers faced in accessing a full range of services can be collected and collated.

9.1.2 Areas (if developing a separate form) should include Name, Date of Birth and Case Reference Numbers on the adapted form. Areas may want to adapt their PREM 1 form for collecting this information.

9.1.3 This information can then be entered into the case management system when upgraded.

9.1.4 Offenders must be informed what the information obtained will be used for, how it will benefit them and assist us in providing an inclusive service. This will be key to them making informed decisions regarding disclosure of their personal data

9.1.5 Information will also need to be gathered from all existing offenders and entered into the case management systems.

9.1.6 The case management systems will capture all the questions with free text fields for questions 3 and 4.

9.1.7 Question 3 identify any barriers and needs disabled offenders face.

9.1.8 Question 4 captures reasonable adjustments that are provided – it is not linked to date.

9.1.9 Areas will need to develop a process for keeping a record of what actual reasonable adjustments are provided to offenders. These records must be updated when adjustments are implemented or changed. Best practice guidance suggests that they should include summary details of any conversations regarding the reasonable adjustment that has taken place or is in train to happen.

9.2 Employees

9.2.1 The legislative requirement applies equally to employees of the Probation Service and in preparation for this; Probation Areas will need to initiate a process for monitoring employees as soon as possible. This should include an appropriate process for monitoring employees entering the service and one for existing employees within the service at the time of implementation (4th December 2006).

9.2.2 For existing employees and offenders, as it is entirely possible for their circumstances to change in respect of their disability status, a request for this information can be incorporated into existing annual checks to ensure that employee records are “accurate and up-to-date”. (*Fourth Data Principle, Data Protection Act 1998; Information Commissioners Office, “The Employment Practices Code”*).

9.2.3 The National Census data return will be adjusted as necessary to reflect the changes in advance of the 2006 data collection, scheduled for 31st December 2006. Additionally, on-going work to develop a HR Data Warehouse for the NPS and preparation for implementing this across the Service will take into account data monitoring requirements under the Act.

9.2.4 Areas will need to develop a process for keeping a record of what actual reasonable adjustments are provided to employees. These records must be updated when adjustments are implemented or changed. Best practice guidance suggests that they should include summary details of any conversations regarding the reasonable adjustment that has taken place or is in train to happen.

9.3 Data collection use and storage

9.3.1 All data collected by NPD is stored on secure networks within the framework of Home Office Data Protection and IT Security policies.

9.3.2 The data collected by NPD is used to report against NPD National Standards and other targets and measures. The data collected will be analysed to highlight any significant discrepancies of performance against these National Standards and other targets and measures to inform the work NPD does to reduce re offending. The data collected will also inform the action plan that will be part of the NPD Disability Equality Scheme.

9.3.3 The data collected by NPD in regards to disabled employees will be analysed in relation to human resource management in terms of workforce planning and ensuring disability equality.

NPS Disability Monitoring

The NPS is committed to providing effective services across all equality strands. We understand the ethical and economic case of ensuring that our service is able to meet the needs of all people who use it by removing barriers that people may face.

This monitoring form asks you to *voluntarily* self declare if you consider yourself to be disabled. The purpose of this form is to establish if you have a disability, any barriers you may face and if you require any reasonable adjustments.

- The information provided is confidential and will be collected and held in accordance with the requirements of the Data Protection Act 1998.
- The information supplied will be used for monitoring purposes and where applicable, to assist the **[Name]** Probation Area in making reasonable adjustments; to ensure that disabled people are treated fairly and equitably within the National Probation Service.
- If you have any concerns about the monitoring process or would like to request a form in an alternative format, please contact [*Please insert contact details as appropriate including telephone, fax and e-mail where applicable*].

“The Disability Discrimination Act (1995) defines disability as: a physical or mental impairment with long term, substantial effects on someone’s ability to carry out normal day to day activities”.

It defines disability as:

- a mental or physical impairment, for example this includes, dyslexia, repetitive strain injury and bi-polar depression
- this has an adverse effect on your ability to carry out normal day-to-day activities
- the adverse effect is substantial -the adverse effect is long-term (meaning it has lasted for 12 months, or is likely to last for more than 12 months or for the rest of your life).

There are some special provisions, for example:

- if your disability has badly affected your ability to carry out normal day-to-day activities, but doesn't any more, it will still be counted as having that effect if it is likely to do so again
- if you have a progressive condition such as HIV or multiple sclerosis or arthritis, and it will badly affect your ability to carry out normal day-to-day activities in the future, it will be treated as having a bad effect on you now
- past disabilities are covered

Q1 Do you consider yourself to be disabled within the meaning of the Disability Discrimination Act (1995)?

Yes / No

Q2. Please tick any of the following which apply to you. – you of course may identify more than one

Hearing <u>impairment</u>		Reduced physical capacity including difficulty with physical co-ordination	
Speech impairment		Severe disfigurement	
Visual impairment (not corrected by glasses or contact lenses)		Mental illness	
Reduced mobility		Learning difficulties	
Progressive condition (e.g. cancer, muscular dystrophy)		Dyslexia	
Other (please specify)			
Do not wish to disclose			

If yes please answer the following questions

Q3. What obstacles and barriers do you face in day to day activities?

Q4. What facilities, equipment or other support, do you need to carry out normal day to day activities?

Guidance for Disability Monitoring

1. Background

- 1.1. Within the Duty to promote Disability Equality is the necessity to gather information about disabled employees and offenders for the sole purpose of highlighting to the organisation how it might better promote disability equality.
- 1.2. It is important to note that the foundation of the Duty to promote Disability Equality is based on the social model of disability.
- 1.3. The definition of the Social model of disability as defined within the Act is:
“The poverty, disadvantage and social exclusion experienced by many disabled people is not the inevitable result of their impairments or medical conditions, but rather stems from attitudinal and environmental barriers.”
- 1.4. **For monitoring purposes NPD and HMPS have agreed a set of ‘categories’ to monitor the occurrence of the types of impairments within NOMS.** The information will be recorded in case management systems and c-NOMIS.
- 1.5. Probation areas must remember that individual disclosure of personal sensitive data is entirely voluntary. This needs to be made clear to the disabled person in order that they are able to make an informed choice regarding disclosure. Making an informed choice will necessitate that people are made aware of what information will be used for, and where data about them, by which they can be personally identified, will be stored.
- 1.6. When the Probation Service is requested to make a disability-related adjustment, and the disability is not obvious, individuals requesting the adjustment may be asked for evidence that the impairment is one which meets the definition of disability in the Disability Discrimination Act. However, areas should not ask for more information about an impairment than is necessary for the purpose of providing reasonable adjustments. Nor should they ask for evidence of disability where it ought to be obvious that the Act will apply.
- 1.7. The Disability Rights Commission Code of Practice for the statutory duty states; “The justification for using monitoring by impairment type will be the extent to which it is relevant to promoting equality for disabled people. If an authority is not ready and able to make use of the information it gathers on impairment type, this may dissipate the energy that the public authority should be directing at promoting disability equality and may not be appropriate. Asking for information on type of impairment may also decrease response rates, unless its rationale is clearly justified to respondents.”
- 1.8. In regards to monitoring of offenders, this information will be used to work towards better provision of service and also to detect whether certain ‘categories’ of impairments, for example, learning difficulties are over represented compared to the general population of offenders. This will guide the future work in terms of service delivery for offenders with learning difficulties. It will also enable agencies to monitor if

groups of people with specific disabilities are more discriminated against within the criminal Justice system, or are more criminalised.

- 1.9. In regards to monitoring of employees, this information will be used to determine attraction, recruitment, retention and promotion of disabled employees. For example, current research indicates that visually impaired people are seriously under represented within the workforce in general. The service will analysis the data collected and if for example finds that there is also under representation of visually impaired employees within NPS then work can be done to look at the reasons and guide the work to increase representation.
- 1.10. The DDA states that the duty to make reasonable adjustments arises 'where a provision, criterion or practice applied by, or on behalf of an employer, or public body, or any physical feature of the premises, places the disabled person at a substantial disadvantage compared with a person who is not disabled'. If a disabled person is at a 'substantial disadvantage' the employer or public body has to take the appropriate steps to make the relevant adjustment. Failure to do so is unlawful and cannot be justified.
- 1.11. The following is some guidance for the categories that will be used for monitoring purposes within HMPS and NPS. Within the guidance are some examples of reasonable adjustments and some advice on working with a person with that impairment
- 1.12. Be mindful that the following is only a guide when establishing reasonable adjustments. Always remember that each person's disability is unique to them and area's **must** ask the person what adjustments they require.
- 1.13. The provision of reasonable adjustments **always** requires the involvement and agreement of the person involved. Many impairments fluctuate in their severity or are made worse by environmental factors, for example, temperature, light levels or noise. Provision of equipment, for example voice activated software may well require modification to the persons working environment e.g. the provision of a quiet area. Areas will need to take this into consideration in their HR policies.
- 1.14. The reasonable adjustments that are outlined within the categories is not an exhaustive list. Each person's disability is unique to them and as such the reasonable adjustments are unique.
- 1.15. When speaking with people about disability Area's must be alert to the sensitivities of the person being questioned and the subject. Each person's disability is unique to them, as is their way of managing it. They will be the experts on their own situation and assumptions of other people knowing what is best for them must be avoided. Further guidance on this can be found in the Learning and Skills Development Agency publications;
 - 'Do you have a disability -yes or no? and
 - Is there a better way of asking? - Guidance on disability disclosure and respecting confidentiality'.

www.LSDA.org.uk

- 1.16. Patronising language must not be used and respect given to people in allowing them the time to answer. Always address the person directly and not through an interpreter or support worker. Remember that the majority of impairments are hidden.
- 1.17. Research shows that disabled people have good reason not to disclose impairments due to certain conditions carrying an extra societal burden of stigma and prejudice, some examples being HIV, mental illness and epilepsy.
- 1.18. Be sensitive both to age and gender issues. Some women and men may prefer to discuss an impairment they regard as an intimate matter, for example, incontinence, with a person of the same gender or of an age similar to their own.
- 1.19. One of the reasons that organisations need to provide reasonable adjustments is because at the design stage accessibility was not considered or thought of. When Areas are involved in any policy, activity and/or physical building project ensure that disabled people are involved from the very beginning. This is part of an organisations duty under the DDA 2005 and guidance given in BSI 7006/2005 Inclusive Design Standard

Guidance for Impairment Categories

Public bodies should aim to remove organisational barriers to access and inclusivity and not rely solely on individual related reasonable adjustments.

Areas need to ensure that they design all products, services, facilities and environments etc must be accessible and usable by the majority of people to the greatest extent without the need for adaptation or specialist design.

Be mindful that the following is only a guide when establishing reasonable adjustments.

Always remember that each person's disability is unique to them and area's **must** ask the person what adjustments they require.

1. Hearing Impairment

Some people who have a hearing impairment might refer to themselves as hard of hearing. The majority of deaf people have a degree of hearing, often enhanced by a hearing aid. They may rely on lip reading. Deaf people rely mainly on lip reading, and also use a hearing aid, but may also use the visual languages British Sign Language (BSL) or Sign Supported English (SSE). SSE is a combination of signs from BSL used with English grammar. Some deaf people's first language may be BSL and English their second language.

Some Reasonable Adjustments

- Hearing loops
- Text phones
- Lip speakers , who soundlessly repeat what is being said, using clear lip patterns
- Sign language interpreters (do not forget to ask if BSL or SSE)
- Palantypists, who produce verbatim text for a speech at the speed of ordinary speech through a computer-based system and special keyboard.
- A note taker to make a record of what has been said.

Practical advice for working with people who have hearing impairments

- Signs for directions in buildings
- Position yourself so that light falls on your face if someone is lip reading
- Look directly at the person and maintain eye contact
- Don't shout, just speak a little more slowly and distinctly but do not exaggerate your lip movements.
- Ensure that adequate time is given to meetings as meeting might need additional time
- Ensure what has been said is understood, things may have to be rephrased as some words people may not be able to lip read
- It takes time for someone to adjust to lip patterns
- Look and speak at the person not at the interpreter.

2. Speech Impairment

Speech impairment or difficulty with articulation might include difficulties with projection, difficulties with fluency such as stuttering or difficulty with the articulation of particular words or phrases.

Speech impairments are prevalent in people with a hearing impairment, cerebral palsy, cleft palate, people who have had a stroke and vocal cord injury.

Reasonable Adjustment

- Voice Activated Software

Practical advice for working with people with hearing impairments

- Allow time to express ideas and opinions without filling in gaps in people's speech
- Ask to repeat what people have said, if necessary. Do not make assumptions if you do not understand what has been said.
- Give the opportunity to contribute in group situations, if they want to
- Speak naturally and respect intelligence

3. Learning Difficulties

For the purpose of this monitoring exercise learning difficulties and learning disabilities will fall into this category.

There is no agreed definition of **learning disability**; for the purpose of this we define a learning disability as *'having a reduced ability to understand new or complex information and to learn new skills'*. This encompasses people whose impairment results in a limited intellectual capacity. Learning disability is an 'umbrella term'. It covers a variety of conditions of which Down's syndrome is one. Some people may have no visible signs of a learning disability. It will have been present before adulthood and has a lasting effect on development.

Learning difficulty is a broader term that encompasses conditions which do not necessarily affect a person's intellectual capacity but do affect the processing of

information. Examples include aphasia and dyslexia. Example of a specific learning difficulty is Aspergers Syndrome.

Reasonable Adjustments

Because there are so many causes of learning difficulties it is strongly recommended that if working with a person with a learning difficulty expert advice is sought to determine reasonable adjustments that are appropriate for the nature of the impairment and day to day activities.

Practical advice for working with a person with a learning difficulty

- Ensure that adequate time is given to meetings as you might need additional time
- Ensure meetings and communication are conducted in a way the person understands
- Ensure people are aware of the 'rules' and what is expected, this may involve verbally explaining written induction and asking questions back to ensure information is understood
- Clearly explain procedures, rights and obligations
- Give clear concise and direct instructions; do not hint or make assumptions have been understood
- Consistent respectful reminders are likely to be helpful

4. Dyslexia

Not everyone with dyslexia will be aware they have dyslexia, it is not related to intelligence, intellectual capability and creative impairment is not impaired.

Dyslexia is a difficulty in processing information and is linked to short-term memory and visual coordination. It is a combination of abilities and difficulties that affect the learning process in one or more of reading, spelling and writing. It is a persistent condition. Areas affected may be identified in areas of:

- Speed of processing;
- Short term memory;
- Organisation;
- Sequencing; and
- Spoken language and motor skills.

There may also be difficulties with auditory and/or visual perception. It is particularly related to mastering and using written language, which may include alphabetic, numeric and musical notation. Dyslexia can occur despite normal intellectual ability and teaching. It is constitutional in origin, part of one's make-up and independent of socio-economic or language background. These difficulties can have a secondary affect on the individuals self confidence and lead to anxiety frustration and low self esteem.

It is strongly recommended that an assessment by a qualified educational psychologist is made to ascertain the strategies that will be most helpful to the individual.

For more information refer to <http://www.bdadyslexia.org.uk>

Some reasonable adjustments and advice for working with people who have dyslexia

General difficulty with reading:

- Give verbal rather than written instructions.
- Highlight salient points in documents.
- Use voice mail as opposed to written memos.
- Use speech to text software.
- Supply/use a reading machine – or allocate someone else to read aloud.
- Provide information on coloured paper (find out which colour helps the person to read best).
- Set up a computer screen with a coloured background to documents.

Difficulty with reading and writing:

- Allow plenty of time to read and complete the task.
- Examine other ways of giving the same information to avoid reading.
- Discuss the material with the employee, giving summaries and/or key points.
- Utilise information prepared in other formats for example audio or videotape, drawings, diagrams and flowcharts.
- Use tape recorders.
- Use speech to text software

Difficulty remembering and following verbal instructions:

- Give instructions one at a time.
- Communicate instructions slowly and clearly in a quiet location.
- Write down important information.
- Demonstrate and supervise tasks and projects.
- Encourage the person to take notes and then check them.
- Ask instructions to be repeated back, to confirm that the instruction has been understood correctly.
- Write a memo outlining a plan of action.
- Use a tape recorder or Dictaphone to record important instructions.
- Back up multiple instructions in writing or with diagrams.
- Difficulty with hidden meanings in conversation:
- Give clear concise and direct instructions; do not hint or make assumptions that you have been understood

5. Visual Impairment (not corrected by glasses or contact lenses)

There are many causes of sight problems – some people are born with a sight problem, others inherit an eye condition and some lose their sight as a result of an accident, after illness or through age.

Many people with visual impairments get around independently, using their remaining vision or with the use of mobility aid, such as a hits cane or a guide dog. Do not assume that visually impaired people read Braille.

Some reasonable adjustments

Equipment

- Large screens – increase size image
- Large print key top stickers
- Magnification software to increase the size of text or graphics

- Screen readers speak the information from the screen – they can also produce Braille readout of text
- Electronic Braille displays
- Scanners convert text on a page to text on a screen

Other

- Information printed in large scale font
- Information in Braille

General Advice

All premises should be accessible for all. Inclusive design principles would ensure that that there would be no need to make any adjustments to premises as they would be included at the design and/or renovation stage. If however this has not occurred following are some improvements that can be made that are very practical and make a difference

- A tactile strip, at the top of a staircase for example indicating descending stairs
- Colour contrasts in doorways and/or permanent fixtures
- Matt finishes on signs to avoid reflections and improve visibility
- Lifts that are accessible – that is can announce the floor and also Braille on the buttons

Speak to the person not the support person or colleague. If the person is unaccompanied always ask in what way they would like to be assisted. In regards to all presentations ensure that a description is given and all information is read out loud. Ensure all communication is accessible, for example, if there are a number of papers at a meeting; ensure that you forward the information prior to the meeting in an accessible format for the individual so they can be read prior to the meeting.

6. Reduced mobility

For the purposes of this monitoring exercise reduced mobility is defined as when a person has reduced mobility due to arthritis, amputation, accidents etc and relies on aides such as a wheelchair, walking sticks etc.

Although visual or hearing impairments and cognitive disabilities can hamper ease of travel, for the purposes of this, they are not considered to have reduced mobility unless they fall into the above definition.

All premises should be accessible for all. Inclusive design principles would ensure that that there would be no need to make any adjustments to premises as they would be included at the design and/or renovation stage. If however this has not occurred following are some improvements that can be made that are very practical and make a difference

- Wide doors – automatic doors
- Lifts and/or ramps to access buildings
- Ensure materials are at appropriate heights – this might mean adjusting the height of a desk or table
- Assistance bells

7. Reduced physical capacity including difficulty with physical coordination

Reduced physical capacity for the purposes of this monitoring exercise is defined as when a person has reduced physical capacity that is separate to mobility. Some examples of disabilities that would fall into this category are repetitive strain injury, Parkinson's and cerebral palsy. People may fall into both categories, reduced mobility and reduced physical capacity in addition to other categories.

All premises should be accessible for all. Inclusive design principles would ensure that that there would be no need to make any adjustments to premises as they would be included at the design and/or renovation stage. If however this has not occurred following are some improvements that can be made that are very practical and make a difference

- Ensure everyone can use doors, locks and handles
- Ensure toilets are accessible
- People with back problems may need to stand or may have to have regular breaks

Some Reasonable Adjustments

- Voice recognition software for computers
- Specially designed key boards on computers
- Work load adjustment
- Use of specifically designed chairs
- Flexibility of working hours

8. Severe disfigurement

People with severe disfigurements are covered by the DDA and do not need to prove any effect on their day-to-day activities.

Not all disfigurements will be considered 'severe'. Scars, birthmarks, limb or postural deformation or skin disease could be severe disfigurements. Whether or not they are 'severe' may depend partly on where they are on the body, for example a birthmark on the back may not be a severe disfigurement, whereas a similar mark on the face might be considered severe.

Tattoos and decorative body piercings are excluded from the definition of severe disfigurement.

9. Mental Illness

Mental Illness refers to a very broad spectrum of conditions and experiences, which have an adverse affect on an individual's mental health, their emotional well-being and sense of self.

People with mental health problems are vulnerable to experiencing recurring episodes of mental illness, which are periods when they may experience intense psychological and physical symptoms. However this certainly does not mean that people with mental health

problems are continuously ill. Mental illness is most often experienced as discrete or isolated episodes.

The fact that someone has a mental illness says nothing about their intellectual capacity or their ability to think clearly and rationally, when they are well.

Some examples of mental illness are

- Anxiety
- Depression
- Phobic anxiety disorders
- Obsessive compulsive disorders
- Post-traumatic stress disorder
- Post-natal depression
- Bi-polar disorder (previously referred to as manic depression)
- Schizophrenia
- Hyperkinetic disorders and emotional behavioural difficulties
- Anorexia nervosa, bulimia nervosa and other eating disorders

People needed to be reminded that it is a duty of care to give time and sensitivity to ascertain what reasonable adjustments are required, this is particularly so for people with mental health difficulties as there is a lot of stigma and wrong assumptions made about mental health.

Reasonable adjustments may include flexible and/or adjusted working hours, reassignment of duties, home working or quiet office space.

External Agencies and Information

Establishments should be aware that there are a number of organisations that can provide help and advice; some of these are listed below:

NPD are seeking to make all the following web sites accessible to NPS users.

NATIONAL DISABLED STAFF SUPPORT NETWORK (NPD funded)

Autonomous group of disabled employees of the Criminal Justice System & Family Court Service

This Group has been recently formed to assist employer and employee groups of NOMS, CAF/CASS, the Probation Service, NPD and other branches of the Criminal Justice System in their commitment to ensuring that equality and inclusion principles and practices are mainstreamed into employment policy, planning, projects and day to day operations.

Some core aims of the group are:

- To provide support and information to all members.
- To assist employers/unions/service users, members and colleagues in compliance with the Disability Discrimination Act.
- To be involved in all areas of Assistive technology.
- To work towards the adoption of the Social Model of Disability by the above groups and its application to policy and practice.

- To inform, disseminate and campaign for best practice in disability issues for staff and service users, including the provision of strategic advice and training. This would not replace local or union provision, but would establish links to share and strengthen such provision and by such linkage, facilitate a consistency of provision and practice.

For further information about this group please contact either:

The Chair: David Quarmby SPO

Quarmby@ntlworld.com or phone 0207 217 8023

The Secretary: Desiree Leete PO

Desiree.Leete@devon-cornwall.probation.gsi.gov.uk or phone 01392 861538

Disability Rights Commission (DRC)

The DRC is an independent body, established by an Act of Parliament, to eliminate discrimination against disabled people and promote equality of opportunity. The work of the DRC includes providing an advice and information service for disabled people, employers and service providers, supporting disabled people in securing their rights under the Disability Discrimination Act (DDA), and helping to solve problems, often without going to court.

Freepost MID 02164
Stratford-upon-Avon
CV37 9BR

Website: www.drc-gb.org
Tel: 08457 622633
Textphone: 08457 622644
Fax: 08457 778878

For information on local disability organisations near you try DIAL UK, or DISS:

Employers' Forum on Disability

Employers Forum on Disability make it easier for members to recruit and retain disabled employees, serve disabled customers and work in partnership with disabled stakeholders.

They work to the mutual benefit of employers and disabled people, providing expert guidance on all aspects of disability as it affects business. Their work is based firmly in the business and ethical case for positioning disability as both a business and equal rights priority. The Forum is widely recognised for setting the standard for disability best practice in the UK.

NPD is a member of employers form. We have negotiated that all employees within the NPS can access the member pages of the web site and attend all events at a member rate. For local areas to receive other members benefits they will need to join seperately.

Web Site access

Username	nation4
Password	method2

Contact Details

Nutmeg House	Tel: 020 7403 3020
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60 Gainsford Street	Fax: 020 7403 0404
London, SE1 2NY	Minicom: 020 7403 0040
Web Site www.employers-forum.co.uk	Email: website.enquiries@employers-forum.co.uk

DIAL UK

DIAL UK is the national co-ordinating group for a network of advice centres for people with disabilities. The centres are run by independent local groups of disabled people or people with direct experience of disability.

Park Lodge St Catherine's Tickhill Road Doncaster South Yorkshire DN4 8QN	Website: www.dialuk.org.uk E-mail: enquiries@DIALuk.org.uk Tel: 01302 310123 Fax: 01302 310404
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DISS (Disability Information Service)

DISS provides a comprehensive national database of disability information for the UK.

Harrowlands Centre Harrowlands Park Dorking Surrey RH4 2RA	Website: www.diss.org.uk E-mail: diss@diss.org.uk Tel: 01306 742282 Fax: 01306 741740
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OTHER USEFUL GROUPS

Age Concern

Age Concern is a national service which helps older people, and supports its 1400 branches nationwide. It produces fact sheets on issues affecting older people.

Astral House 1268 London Road London SW16 4ER	Website: www.ageconcern.org.uk E-mail: ace@ace.org.uk Tel: 0208 765 7200 Info line: 0800 009966 Fax: 0208 765 7211
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National Autistic Society

Runs a helpline which has advisers available to talk about autistic spectrum disorders and offer help. Provides information packs and information sheets. Supplies details of local groups.

Autism Helpline
National Autistic Society
393 City Road
London
EC1V 1NG

website www.nas.org.uk
Tel 0845 070 4004

The British Dyslexia Association (BDA)

The BDA produce useful information sheets on many aspects of dyslexia, and can supply contact details of local dyslexia groups.

98 London Road
Reading
RG1 5AU

Website: www.bda-dyslexia.org.uk
E-mail: info@dyslexiahelp-bda.demon.co.uk
Tel: 0118 966 2677
Helpline: 0118 966 8271
Fax: 0118 935 1927

Mencap

The UK's leading learning disability charity. It provides a wide range of services including advice and support on housing, education and employment

123 Golden Lane
London
EC1Y 0RT

Website: www.mencap.org.uk
Email: information@mencap.org.uk
Tel: 0207-454-0454

MIND

Mind is the main mental health charity in England and Wales. It works to create a better life for everyone with experience of mental distress. The Mind info line offers confidential help on a range of mental health issues.

15-19 Broadway
London
E15 4BQ

Website: www.mind.org.uk
E-mail: contact@mind.org.uk
Tel: 0208 519 2122
Mind Info Line: 0845 766 0163

Royal National Institute for the Blind (RNIB)

The RNIB is the UK's leading charity offering information, support and advice to people with sight problems.

105 Judd Street
London
WC1H 9NE

Website: www.rnib.org.uk
E-mail: helpline@rnib.org.uk
Tel: 0207 388 1266
Helpline: 0845 766 9999 (9 - 5 Mon – Fri)

Royal National Institute for Deaf People (RNID)

The RNID is the largest charity representing deaf and hard of hearing people in the UK. Services include information, awareness training, campaigning, residential care, communication services, employment services, telephone relay service (Typetalk) and a Tinnitus helpline.

19-23 Featherstone Street
London
EC1Y 8SL

Website: www.rnid.org.uk
E-mail: informationline@rnid.org.uk
Tel: 0808 808 0123 (freephone - helpline)
Textphone: 0808 808 9000 (freephone)
Tinnitus helpline: 0808 808 6666
Tinnitus textphone: 0808 808 0007

Offender Policy & Rights Unit (Tel: 0207 217 6331).

The Offenders' Information Books for male offenders and young offenders and for women offenders and female young offenders provide guidance on health-related matters and outline the procedure for requesting particular treatment or medication.

The Trades Union Congress

The Trades Union Congress;

- brings Britain's unions together to draw up common policies
- lobbies the Government to implement policies that will benefit people at work
- campaigns on economic and social issues
- represents working people on public bodies
- represents British workers in international bodies, in the European Union and at the UN employment body - the International Labour Organisation
- carries out research on employment -related issues
- runs an extensive training and education programme for union representatives
- helps unions develop new services for their members
- helps unions avoid clashes with each other
- builds links with other trade union bodies worldwide

Contact Details

Congress House
Great Russell Street
London
WC1B 3LS
Tel: 020 7636 4030
Fax: 020 7636 0632

Trade Union Disability Alliance

The Trade Union Disability Alliance is an organisation of Disabled Trade Union Members. They are a campaigning group with individual members from well over two dozen different Trade Unions. TUDA aims to:

- Co-ordinate the perspective of Disabled people in the Trade Union movement;
- Bridge the gap between the Trade Union and Disability movements;
- Work within, and lobby, Trade Unions to ensure they make their own services accessible and relevant to Disabled Members;
- Ensure that Trade Unions support our continuing campaign for full civil rights;
- Promote understanding of disability as an equalities issues, giving talks and training to Trade Unions;
- Work with Disabled people to persuade them of the benefits of Trade Union membership and activity.

Contact Details

By email: mail@tuda.org.uk

By post:

BM TUDA

London

WC1N 3XX

Equality Impact Assessment

1. Title of function, policy or practice (including common practice)

Probation Circular Disability Monitoring

2. Aims, purpose and outcomes of function, policy or practice

The aim is to comply with the Disability Discrimination Act 2005 and gather information about NPS employees and offenders to be able to work towards disability equality throughout the service.

3. Target groups

This policy is aimed at disabled employees and offenders within NPS.

4. Adverse Impacts that have been identified

H – High
M – Medium
L – Low

Adverse Impact	Action Identified	Priority
5. Monitoring of impairment groups comes from a medical model approach, there is concern that practitioners and service users who are committed to the social model may have negative connotations and as a result may not ask service users, or be reluctant to do so and equally for employee monitoring.	Areas need to be clear to all employees and service users why the data is being collected. Attention needs to solely favourably outcome and be focussed on the removal of created societal barriers.	H
4. Data collected may be unreliable as people may not disclose	NPD will need to take this into consideration when analysing the data sets	M
6. Individuals interviewing offenders may not have read this guide and may assume certain things about people, or feel uncomfortable asking questions	Areas to ensure that all employees read the guidance. Areas to ensure Disability Equality Training is conducted with all employees.	H
7. 240 character limit in NOMIS to collect comments is limiting	Areas will need to ensure process of keeping accurate paper files until NOMIS is	L

	upgraded.	
8. As information is being collected it may raise disabled employees and offenders expectations	NPD and areas must analyse data to inform disability equality. Benchmarks need to be developed to measure success	M
9. After reading the guidance, some people may feel they do not need to research any further, particularly about people's impairments. It could be seen as 'the definitive guide'	Areas need to develop and implement disability equality training and stress to all employees that this is only guidance.	H
10. A generalised document and not specific and does not discuss multiple discrimination.	Employees need to treat everyone equally, both colleagues and service users.	H
11. There is a danger that areas may inadvertently interpret sections of this document to mean that it is legitimate to performance manage or use capability or disciplinary action with disabled employees	Managers need to comply with legislation and operate their duty of care in order to avoid action that could lead to legal challenge.	H
12. This document may not highlight the importance of providing reasonable adjustments from the recruitment process through to commencement of employment or from acquiring a disability whilst at work and as such disabled employees and service users may be in a situation where they are unable to complete their activities until formal reasonable adjustments are in place. Areas may need to provide a workable solution before these are in place	Areas need to consistently monitor the progress of implementing reasonable adjustments and discuss interim solutions.	H
13. The document may highlight reasonable adjustments but not the individual's right to independence. Reasonable adjustments should not be used to remove organisational barriers - it limits individual's independence, opportunities and feelings of self worth.	All policies need to be impact assessed with disabled people's involvement.	H

14. Areas may focus on financial constraints to legitimise not making changes to ensure disability equality	Areas need to budget to make changes and add to business plans.	M
15. This document only refers to monitoring of offenders and employees	Areas will need to develop systems for monitoring disability equality for all service users	H

16. Consultation Process

NPD have involved the National Disabled Staff Support Network (NDSSN) in developing the documentation.

NPD consulted with the following in developing the documentation:

- NAPO,
- Disability Right Commission,
- Unison,
- Lesbians, gay men, bisexuals and transgendered staff working in probation & family courts (LAGIP),
- Association of Black Probation Officers (ABPO) and
- National Association of Asian Probation Service (NAAPS).