

# Avoiding Discrimination in Employment

- *Employees & Carers*

*Ross Milvenan, Digby Brown LLP*



because if it matters to you, it matters to

# Aim

Provide an outline of legal rights in relation to disability discrimination for employees and carers

because if it matters to you, it matters to

# Content

- Definition of 'disability'
- Types of disability discrimination
- Protection for employees
- Protection for carers

because if it matters to you, it matters to

# Equality Act 2010

A physical or mental impairment that has a substantial and long term adverse effect on the ability to carry out normal day to day activities

because if it matters to you, it matters to

# Protections

- Direct discrimination
- Indirect discrimination
- Discrimination arising
- Reasonable adjustments
- Harassment
- Victimisation

because if it matters to you, it matters to

# Direct Discrimination

- Less favourable treatment
  - Comparison
  - Positive treatment allowed

because if it matters to you, it matters to

# Indirect Discrimination

- An organisation's practices, policies or procedures create a particular disadvantage
- PCP
- Cannot be justified

because if it matters to you, it matters to

# Discrimination arising from disability

- Unfavourable treatment
  - Because of something arising in consequence of disability
  - Justification

because if it matters to you, it matters to



# Reasonable Adjustments

- Duty on employers to make reasonable adjustments to premises or working practices
- Failure to comply is discriminatory
- Duty arises involving:
  - PCP   - Physical feature   - Auxiliary aid
- Substantial disadvantage
- "*Reasonable*"

because if it matters to you, it matters to

# Harassment

- Disability harassment occurs where there is both:
  - unwanted conduct **related to** disability
  - conduct has the **purpose or effect** of violating dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment

because if it matters to you, it matters to

# Victimisation

- Being subjected to a detriment because of taking action in relation to disability discrimination
- Includes : Bringing proceedings, giving evidence, making an allegation of discrimination

because if it matters to you, it matters to

# Avoiding discrimination

- Request reasonable adjustments
  - Resolve informally
  - Grievance
  - Employment Tribunal
- 
- Time limit – 3 months (less one day from date of act of discrimination complained of)

because if it matters to you, it matters to

because if it matters to you, it matters to

# Protections for Carers

- Discrimination by Association
- Rights for carers – child or relative who meets definition
- *Coleman v Attridge Law*
- Implied words into UK law to give extra protection

because if it matters to you, it matters to

# Protections for Carers

- Applies to Direct Discrimination
- *Hainsworth v Ministry of Defence*
- Flexible working

because if it matters to you, it matters to

because if it matters to you, it matters to



# Summary

- Law offers protection
- Use positively
- Take advice

because if it matters to you, it matters to

# Questions?

because if it matters to you, it matters to

# Resources

- ACAS <http://www.acas.org.uk/>  
0300 123 1100
- Equality & Human Rights Commission  
<https://www.equalityhumanrights.com/en/commission-scotland>
- [ross.milvenan@digbybrown.co.uk](mailto:ross.milvenan@digbybrown.co.uk)

because if it matters to you, it matters to