

## INFORMATION SHEET : 2

### Lighting and accessibility: Your rights at work

This brief guidance for people suffering because of artificial lighting at work aims to help them to remain in employment. The information is also to assist colleagues, managers and HR departments wanting to improve accessibility in the workplace.

A more detailed version is available on our website and can be emailed or posted to you on request (see contact details below). This covers: disability discrimination; other organisations that can help you; and more information on health conditions where light sensitivity is common.

**The information here is not a substitute for detailed advice about your rights. We strongly advise people having difficulties with artificial lighting in the workplace to contact their trade union or legal professionals before taking any formal action, such as going to tribunal. The information contains references to UK equalities legislation, which will be different in other countries.**

#### What's the problem?

Lighting has changed fundamentally in recent years. Incandescent and halogen light sources have been banned and replaced by new technologies – first new forms of fluorescent lighting (including curly CFLs 'Compact Fluorescent Lights') and now mostly 'LED' ('Light Emitting Diodes, also known as 'solid state lighting').

Some people experience pain and ill health when exposed to these newer forms of lighting.

Symptoms which last for an extended period and have a severe adverse impact on everyday life can mean that the person concerned meets the definition of "disabled" set out in the Equality Act 2010, which means that employers and service providers may have specific duties to make reasonable adjustments for them.

#### Should you let your employer know?

An employer is unable to provide support or understand the issue if you do not let them know that the artificial lighting in the workplace is affecting your health and wellbeing. Talking about the issue may not be easy but might also result in your manager and colleagues being supportive and making changes to help you at work.

Before approaching your manager or HR, you may wish to speak with your GP or consultant to discuss the changes and support that your employer could give you. You could also take external advice, for example from your trade union or an advocacy service.

#### Applying for a job

Employers are not allowed to ask questions about a potential employee's health until after they have made a job offer. Employers can ask applicants if they require any adjustments to the interview process to prevent people with disabilities being put at a substantial disadvantage because of their disability. For example, you could ask for an interview to be held in a room illuminated by natural daylight.

Once an employer has made a conditional job offer, they can ask you questions about health conditions that are likely to affect you at work and whether you need reasonable adjustments to support you.



## Employer's responsibilities

**The Health and Safety at Work Act 1974** sets out employers' responsibilities for the health and safety of their employees. Employers should carry out risk assessments of the workplace and take reasonable steps to ensure that workplace factors do not cause or exacerbate poor health. Building and lighting design is important in ensuring a healthy working environment.

**The Equality Act 2010** makes it unlawful for an employer to discriminate against, harass or victimise a disabled person. This includes: **Direct discrimination, Indirect discrimination and Discrimination by failing to make reasonable adjustments**

## Reasonable Adjustments

Under the Equality Act, employers have a duty to make reasonable adjustments for disabled employees and job applicants; this includes people who are disabled by artificial lighting. It helps encourage employers and employees to work together to break away from the rigid employment practices, identify what adjustments and support might be needed, and find flexible ways of working that may benefit the whole workforce.

The current regulations banning incandescent and halogen bulbs recognise the problems people have with LEDs and contain an exemption to enable alternative bulbs to continue to be made available for use by people with light sensitivity conditions. The procedure for supplying these bulbs into the future is still under discussion with the UK government. However, the recognition of the principle in law means that employers should feel able to use existing stocks of these bulbs to enable access for light-disabled people.

Making reasonable adjustments to lighting is complex as lighting in business premises is often designed on a "one size fits all basis". But steps can still be taken to enable access, including:

- » **Flexible working hours** for example, leaving work early in winter to avoid travelling after dark.
- » **Flexible location** allowing you to work at home or at an alternative location with better lighting.
- » **Frequent breaks** giving staff time to go outside into natural daylight.

Employers need to be ready and willing to:

- » Provide job applicants with **information** on the types of lighting installed within a building.
- » **Switch off** lights where required by individual employees.
- » **Change bulb types** to accommodate an individual.
- » Allow employees to work in a space that can be lit **separately** and provide a **rest room** or first aid room that is dark and quiet.

## If this doesn't go well...

Sometimes people struggling with artificial lighting experience difficulties when communicating with a colleague or manager regarding their health. If you feel that you are being treated unfairly it is advisable to keep a written record of events, including what happened, who was present, etc.

If the problem continues, you may wish to register your complaint formally through your organisation's grievance policy. Depending on the outcome of your grievance/complaint you may wish to explore the options of workplace mediation or employment tribunal claim.

Previous Employment Tribunals have accepted that in some cases, light sensitivity is a disability and that fluorescent lighting is a trigger for migraine.

