



Asthma

An Advice Guide
for Usdaw Reps

What is Asthma?

People with asthma find it difficult to breathe when they come into contact with something that irritates their airways. The muscles around the walls of the airways tighten so that the airways become narrower and the lining of the airways becomes inflamed and starts to swell.

Asthma is common:

- 5.4 million people in the UK are currently receiving treatment for asthma.
- One million children in the UK are currently receiving treatment for asthma.
- One in five households in the UK includes a person with asthma.

Something that brings on an asthma attack is known as an asthma trigger. Everyone has different triggers - some of the most common are furry animals, pollution, colds and viral infections or stress.



Symptoms of Asthma

Supporting Disabled Workers in the Workplace

Members with asthma may be entitled to the protection of the Equality Act (Disability Discrimination Act in Northern Ireland). This can help them get the right support at work because the Equality Act gives members important legal rights.

Members may need the support of their Union rep. Their condition may affect their attendance or performance and this may lead to them being disciplined under capability procedures or absence management policies. They may also find that aspects of their job make their condition worse.

Unfortunately, managers sometimes do not realise that members with asthma may have rights under the Equality Act.

This leaflet explains what asthma is and how reps can use the Equality Act to help support members with this condition.

The symptoms of asthma are:

- Shortness of breath.
- Coughing and wheezing.
- Tightness in the chest.

Not everyone will get all of these symptoms. Some people experience them from time to time; a few people may experience these symptoms all the time. Therefore just because someone looks fine some or most of the time does not mean they do not suffer from asthma.

Asthma attacks are serious and can be fatal. Most fatal asthma attacks happen to adults and the majority of deaths are preventable. During an asthma attack the person may be too breathless to speak or eat. Sometimes the person may notice that their symptoms are gradually getting worse over a period of a few days and this can be a sign that they are going to have an asthma attack.

Asthma Triggers

Something that brings on an asthma attack is known as an asthma trigger. Everyone has different triggers - some of the most common are:

- Furry animals.
- Pollution.
- Colds and viral infections.
- Stress.

Supporting Members With Asthma

Members with asthma may not think of themselves as disabled. However people with long-term health conditions such as asthma may have rights under the law that can help them stay in work.

The Equality Act (DDA in Northern Ireland) gives people a number of important rights and protections at work.

A member with asthma would be entitled to the protection of the Equality Act if they meet the definition of a disabled person as set out in the Act. If you can show that the member meets this definition, you will have a much stronger case in arguing that the employer should support the member.

Many members with asthma will be covered by the Equality Act, though not all. Very few conditions are automatically covered under the Act and asthma is not one of them. Instead, you have to show that a member meets the definition of a disabled person as set out in the Act. When deciding if a member is covered by the Equality Act (DDA in Northern Ireland), look at the following:

1. Does the member have a physical or mental impairment?

Asthma is clearly a physical impairment so members with asthma would normally meet this definition.

A person with asthma may not look disabled and managers may therefore not believe they have anything wrong with them. It is not always obvious that someone is disabled. Nonetheless they can be covered by the Equality Act.

2. Is it more than a trivial condition?

Some members may not find their asthma too much of a problem, but for others it could have a significant impact on their life. You would have to show that the impact on the member's life is more than trivial. Keeping an asthma diary can help to document the effects of asthma on the member and aid with getting a diagnosis from their doctor.



3. Has the condition lasted or will it last for more than a year?

Asthma is a long term condition which can change from day-to-day or year-to-year. The member does not have to be constantly suffering and fluctuating conditions such as asthma can be counted.

Official guidance to the definition of disability published by the Office for Disability Issues makes it clear that impairments with fluctuating or recurrent effects such as asthma can be covered. Where a person has a condition that fluctuates or comes and goes then it is to be treated as continuing throughout if it is 'likely to recur'. Likely in this context simply means it could well happen.

4. What would happen if the member stopped taking medication?

This is a key issue for someone with asthma, as medication can often help to manage their condition. Employers sometimes argue that the member is not disabled because their condition is controlled by medication. However, in deciding whether or not someone is disabled they must be assessed as if they were not taking their medication. This means that a person who would meet the criteria for protection under the Equality Act, but whose condition



is controlled by medication, would still come under the definition of a disabled person. This is because medication controls the symptoms of asthma; they do not make the condition go away.

5. Does the condition affect the member's everyday life?

If you can show that the member's asthma has a substantial effect on how they carry out normal day-to-day activities, they should meet this definition. Go through the list of common symptoms in this leaflet with the member and mark off which they experience. Then go through a typical day with them and ask how their symptoms affect their day-to-day activities. It does not matter if the effect is not there every day.

If you can show that the member meets all of the criteria listed, then they will be entitled to the protection of the Equality Act (or DDA in Northern Ireland). This is well worth having and gives the member strong legal rights.

The employer would then have a duty to make what are called reasonable adjustments to take account of the member's asthma. This means that they have to change some aspect of the member's working arrangements to help them stay in or get back to work. The member will be the best judge of what adjustments they need but examples of reasonable adjustments could include:

- Changing elements of their job: For example, extremes of temperature or working in a dusty environment may aggravate a member's asthma. It might be 'reasonable' to adjust the length of time a member spends in these environments.
- Transferring to a new role.
- Changed, reduced or flexible hours: If pollution aggravates a member's asthma it may be reasonable to adjust start or finish times to avoid travel to work in the 'rush hour'.
- Adjusting sickness absence formula so that absences related to their asthma are counted separately and not used to trigger disciplinary action.



The Social vs the Medical Model of Disability

For some time now disabled people have emphasised that it is not so much their disability that prevents them from fully participating in society, but instead it is the way in which society fails to make adjustments for their disability that excludes them.

This emphasis on changing the barriers put up by society, rather than seeing the disabled person as the 'problem', is known as the 'social model of disability'. In other words, disabled people are people with impairments/health conditions who are disabled by discrimination, exclusion, prejudice and negative attitudes towards disability. Their impairment is not the problem.

The 'medical model' attributes the problems resulting from a disability to medical conditions alone. It concentrates on a person's impairment. Rather than focusing on the barriers society throws up that prevents disabled people from participating equally, the 'medical model' focuses on what disabled people should do to adapt to fit into the world as it is. If they are unable to adapt, the medical model accepts their exclusion.

For example, while a mobility difficulty can have an adverse effect on a person's ability to walk, the fact that the transport system is inaccessible to them has a far greater effect on their ability to get around.

The law is unfortunately rooted in the medical model. It has been rightly criticised for focusing on an individual's impairments and their ability to carry out normal day-to-day activities, rather than on getting rid of the barriers society puts in the way of disabled people.

This leaflet is designed to help understand how the law can support disabled members in the workplace and therefore tends to focus on the medical model.



More Information

Usdaw Nationwide

Wherever you work, an Usdaw rep or official (Area Organiser) is not far away. For further information or assistance, contact your Usdaw rep or local Usdaw office. Alternatively you can phone our Freephone Helpline **0800 030 80 30** to connect you to your regional office or visit our website: www.usdaw.org.uk

You can also write to the Union's Head Office. Just write **FREEPOST USDAW** on the envelope and put it in the post.

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