

Face masks – overcoming the barriers they pose to communication

An issue that has been raised with us recently is that of communication difficulties for deaf and hard of hearing people posed by service providers and workers wearing face masks.

Face masks tend to be opaque and completely hide the wearers' mouths. This means that people who are deaf or hard-of-hearing are unable to lip-read, a solution that is often used to assist communication. They can also muffle speech and effectively disadvantage someone with impaired hearing.

Where that speaker is wearing an opaque face mask in the course of their employment, for example as a shop worker who is serving the public, then the problem could prevent a customer who is deaf or hard-of-hearing from being able to access the same level and quality of service that others are still able to enjoy.

Of course, an obvious solution would be for employees to wear [transparent or clear face masks](#) that do not hide their mouths. But, that is a practical solution only if such masks are readily available for employers and service providers to obtain. At this time of widely reported shortages of many items of personal protective equipment this may not be feasible.

Does equality law provide any solution? The obvious source of one lies in **the duty to make reasonable adjustments** that the **Disability Discrimination Act 1995** (DDA) imposes on employers and service-providers.

Duties under the Health and Safety at Work legislation

Complying with the DDA duties does not oblige employers to compromise the health and safety of their employees.

Employers must continue to comply with their common and statute law duties to provide their employees with a reasonably safe workplace and safe systems of work, which may include providing suitable personal protective equipment. The best source of guidance on such matters is the [Health and Safety Executive for Northern Ireland](#).

In complying with these duties employers may be obliged to supply their employees with opaque face masks, and for their employees to wear the same in particular situations.

The duty to make reasonable adjustments under the DDA

But this poses other questions, such as whether work-related meetings or service delivery encounters might reasonably be arranged in other ways so that deaf or hard-of-hearing people are not excluded or disadvantaged.

For example, could such encounters be done by way of video conferencing, or with text-based solutions, such as mobile phone texting, instant messaging type text or the [Virtual Relay Service](#), where the participants do not meet physically and where the employees won't need to wear face masks? Perhaps the participants could meet physically but could avoid wearing masks if suitable other measures are put in place, like social distancing or with transparent screens, as many shops have now.

There are also familiar helpful tools that could be used, such as hearing loops for people who wear hearing aids.

This is where the DDA comes in. The key issue is the *duty to make reasonable adjustments*, which falls on both employers in relation to their disabled employees and on service-providers in relation to their disabled service-users.

In the context of this particular issue, the duty obliges employers and service-providers to think of the needs of their deaf and hard-of-hearing employees and service-users and to devise reasonable alternative methods of communicating with them, whilst not endangering anyone's health and safety.

Some practical guidance is available from experts in the field, such as Action on Hearing Loss:

- [guidance on working from home](#)
- [guidance for healthcare providers](#)

Whether there are reasonable alternative methods of doing these things depends on the context. What may be possible and reasonable to do in an office may not be possible or reasonable to do in manufacturing or retail work. What may be possible and reasonable for a large business to do may not be possible or reasonable for a small one.

When assessing whether it would be reasonable to do something and, thus, whether one is obliged to do it, an employer or service provider may consider a number of factors, such as

- the practicality of the proposed alternative method – will it work? – will it provide a satisfactory solution?
- the financial and other costs of implementing it
- the size of the business and the availability of resources
- the effects that proposed alternatives may have on other people, particularly if it would endanger them.

The law recognises that there may be limits to what the reasonable adjustment duty requires. It is not an absolute duty; it is conditional on what may reasonably be done in the circumstances.

We will finish by outlining some things to do:

- acknowledge that some disabled people, such as deaf or hard-of-hearing people, may be disadvantaged by how you conduct your business affairs or deliver your services
- anticipate their needs: it's a good idea to consult disabled employees or service-users to get better information about this
- base your decisions on good evidence, for example, on suitable health and safety risk assessments
- obtain expert advice, such as that provided by specialist groups, e.g. charities like Action on Hearing Loss
- check if funding is available from others, such as central or local government
- keep an open mind to possible solutions
- test possible solutions to see if they would work – do not presume that solutions like video conferencing will necessarily work for everyone – perhaps other adjustments on top of this will also be needed, such as ensuring that such remote meetings are free of unnecessary and distracting background noise
- review periodically and look for new and better solutions that people may develop to deal specifically with the pandemic and be prepared to use them e.g. transparent face masks

Further advice and information

Health and safety in the workplace

For advice on promoting health and safety in the workplace, and on how to carry-out health and safety risk assessments contact the [Health and Safety Executive Northern Ireland](#).

Employment law

For advice on how comply with statutory employment law, contact the [Labour Relations Agency](#).

Access-to-Work Scheme

This scheme is a potential source of help for employers and employees; for example, the scheme may provide funding for communication support and aids for employees with hearing impairments. Further information is available at [Access-to-Work](#).

Equality and discrimination law

For advice on employers' obligations under equality and discrimination law, contact the Equality Commission's helpline on **028 90 500 600** and ask for our **Advisory Services Team**. Alternatively, you can email information@equalityni.org or edenquiries@equalityni.org and we will answer as soon as possible.