

OFFICE OF THE OMBUDSMAN FOR BERMUDA

REASONABLE ADJUSTMENT POLICY

Purpose

The Office of the Ombudsman (“Office”) recognises that we should take reasonable steps in the way that we work with people with disabilities to ensure they are not disadvantaged in comparison to people who do not have a disability.

Policy Statement

Under Bermuda’s Human Rights Act 1981 (“HRA”) a service-provider, such as the Ombudsman, cannot refuse to provide a service or facility sought by a person with a disability unless it is reasonable, in all the circumstances, to refuse to do so.

As a service-provider we will make reasonable adjustments to ways in which we provide services to accommodate people with disabilities depending on the nature of a person's individual circumstances.

This policy does not seek to explain how we will approach every situation; it is intended as a general statement of our policy to:

- confirm our commitment to improving accessibility for everybody that we deal with;
- set out some of the basic principles for making reasonable adjustments for people with disabilities; and
- set out the factors that we will take into account in dealing with requests for reasonable adjustments.

Many of the arrangements that we offer for people with disabilities may also be made available for those who don't have disabilities. For example, a person may find it easier to read our information leaflets in a larger than usual font.

Authority

This Policy has been issued by the Ombudsman.

Application

This policy applies to all employees and staff of the Office in the conduct of the Office’s case management function.

This policy is the point of reference for all case-management practices and procedures that address communications with and services provided to service-users requesting reasonable adjustments.

Scope

This policy applies to all communications with and services provided to the Ombudsman’s service-users, including complainants and authorities.

Statutory Obligations

The HRA defines a “disabled person” as a person who has any degree of physical disability (which includes infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect or illness) or a person who has, or has had, a mental impairment (and the impairment has, or has had, a substantial and long-term adverse effect on that person’s ability to carry out normal day-to-day activities).

Providing a service or a facility to a person with a disability will, in some circumstances, mean that people with disabilities receive more favourable treatment than people without disabilities, which is lawful in the context of disability.

What is a reasonable adjustment?

A reasonable adjustment involves making a change to the way that we usually do things to ensure that we are fair to people with disabilities. We may depart from our usual practice if we find it places people with disabilities at a substantial disadvantage. For instance, by providing information in an alternative format.

The Office will not make assumptions about whether a person with a disability requires any adjustments or about what those adjustments should be. We will discuss the requirements with the person concerned and seek to reach agreement on what may be reasonable in the circumstances.

The Office will use best efforts to agree in advance with the individual in question the reasonable adjustments that we are able to make and provide reasons when it may not be possible.

Requesting reasonable adjustments

The Office will let people know that we can provide reasonable adjustments in the following ways:

- by asking people directly in our first communication if they have a disability and might need any adjustments;
- by considering including a note on our published documents indicating that we can provide the document in an alternative format on request;
- by publishing this policy on our website;
- by seeking to work with representative groups and others to raise awareness of this policy; and
- by including a clear note on the related case file that alerts staff to an agreed reasonable adjustment.

The types of reasonable adjustment we can offer

While we will consider each request for reasonable adjustments individually, there are some common adjustments which we will offer as a matter of course and some other adjustments that we can make particular arrangements to provide.

In most cases adjustments will always be agreed with the person concerned to avoid making incorrect assumptions about their needs.

When considering what reasonable adjustments we may make, we will take into account reasonable variations to our processes, policies and procedures.

Some examples of the simple reasonable adjustments that staff can make may include:

- providing documents or correspondence in a larger font size;
- providing documents on coloured paper or with a specific colour contrast, which can often help people with conditions such as dyslexia;
- allowing a person who has a learning disability or mental health problems more time than would usually be allowed to provide further information, except where there is a statutory deadline which we have no power to change;
- using email or the telephone in preference to hard copy letters where appropriate, which may assist those with a vision impairment;
- speaking clearly to the people who we deal with and offering additional time to cover the issues they need to discuss. This will help everyone understand our processes and procedures;
- using plain English appropriate to the person we are dealing with and avoiding jargon.
- visiting a complainant in their home if feasible to take the complaint or follow-up with them; and
- facilitating communications between a complainant and an authority to help with current access to the authority's services.

Some other arrangements that we can provide may include:

- providing information on audio tape;
- helping someone who has mental health problems to understand and manage the action we are taking by arranging a single point of contact within the Office; and
- communicating by post and/or email for those with a speech impairment.

A small number of requests may require more detailed consideration and our approach to these requests is discussed in the section below.

Our response to requests for reasonable adjustment

In the majority of cases we will be able to agree and deliver reasonable adjustments with a minimum of delay. In some cases, we may need to consider in more detail how best to overcome the difficulty a person with a disability may be experiencing. For example, where the adjustment requested may be difficult to provide or where it may interfere with our legislative obligations, such as a request to accept a complaint when a person with a disability knew of an administrative action for over a year (see s.9(1)(a) of the Ombudsman Act 2004).

How we decide what is ‘reasonable’

There is no statutory guidance as to whether or not an adjustment to a service is ‘reasonable’, but we have adopted the statutory guidance from the UK’s Disability Discrimination Act. We will, therefore, apply this guidance to help us in the more difficult cases.

The consideration of whether an adjustment is ‘reasonable’ is judged against the following:

- The effectiveness of the adjustment(s) in preventing the disadvantage;
- The extent to which it is practical for the Ombudsman to make the adjustment(s);
- The cost and availability of resources; and
- The extent to which making the adjustment(s) would disrupt the Ombudsman’s activities.

The adjustment should be designed to fully address the disadvantage it is meant to overcome. For example, providing an audio version of documents may not properly overcome the barriers faced by the person with a disability if there are other requirements that need to be overcome if, for example, the service-user also has a hearing impairment.

What are the resource implications of making the adjustment?

For an adjustment to be reasonable, it should be effective. However, it is important to remember that an adjustment, which is deemed effective, may not be considered reasonable. For example there may be issues of resourcing. Resourcing is not just about the cost but may involve other factors, for example recruiting additional staff with specific skills.

In terms of the use of our resources for making adjustments, the ‘reasonableness’ of an adjustment will be evaluated against the resources available to the Ombudsman as a whole.

Even if an adjustment has a significant cost associated with it, careful consideration to any long-term benefit that it may provide to the Ombudsman, our staff and service-users will be given.

In practice, many reasonable adjustments involve little or no cost or additional resourcing requirements and are relatively easy to implement.

Would the adjustment cause disruption to others?

Usually it would not be reasonable for an investigator to cease work on other cases and devote all of their time to one case, as others will likely be disadvantaged. The amount of extra time provided must therefore be ‘reasonable’ in all the circumstances.

Monitoring

The Office will record and monitor the reasonable adjustments that have been requested and made. This will allow us to review the services we provide and help us identify whether there are any wider steps that we can take to improve our services.

Roles and Responsibilities

- a. The Ombudsman has overall responsibility for ensuring that the Office complies with the requirements of legislation affecting the provision of services to people with disabilities.
- b. The Deputy Ombudsman is responsible for:
 - i. Ensuring that this Policy is implemented effectively;
 - ii. Signing off on individual reasonable adjustment requests; and
 - iii. Ensuring that the office monitors the reasonable adjustments requested and made.
- c. The Investigations Officers are responsible for:
 - i. Alerting service-users to our reasonable adjustment policy and ascertaining whether they wish to request a reasonable adjustment
 - ii. Conducting a preliminary assessment of a reasonable adjustment request
 - iii. Implementing the reasonable adjustment approved by the Deputy Ombudsman

Dealing with complaints about our service

The Ombudsman is committed to providing a high standard of service, dealing with everyone in a way that is fair, and free from discrimination. If someone is dissatisfied with the arrangements our Office has made for providing reasonable adjustments, we will respond in accordance with our service complaints policy. Further information about our service complaints policy is on our website at www.ombudsman.bm.