

ADVICE NOTE TO THOSE SEEKING FUNDING FOR COMMUNICATION AIDS FOR ADULTS

Introduction

For people with communication difficulties, communication aids can provide a vital tool to inclusion in all aspects of life. Although they are available for purchase by individuals, the cost may be beyond an individual's means. However, there are a number of potential sources of public funds for assistance with purchasing equipment.

Sources of Funding

Once a person is no longer a 'child' for the purposes of the Education Act 1996, (which means that they are over the age of 18, or over 16 and not in school) they can no longer access funding through a statement of special educational needs. For adults, there is no direct equivalent to the statement, and funding can be more difficult to obtain. There are in fact a number of other routes for seeking funding, as set out below, but none provide such a clear-cut obligation as a statement.

Community Equipment Service

Many areas of the country now operate an *Integrated Community Equipment Service* (ICES), which pools funds from both the National Health Service and Social Service Departments for equipment for disabled people. However, not all ICES cover communication aids as part of the pooled fund. Details of whether there is an ICES in your area, and how to contact them, can be found on the ICES website (www.icesdoh.org).

NHS and Social Services

Where there is no ICES, individual approaches can be still be made to the NHS – who have a contract to purchase and supply speech aids as part of an Electronic Assistive Technology Agreement - and/or Social Service Departments - who can provide equipment to persons over the age of 18 pursuant to their powers under section 29 of the National Assistance Act 1948. In particular, section 2(1) of the Chronically Sick and Disabled Persons Act 1970 requires Local Authorities to provide support, if they consider it necessary in order to meet a disabled person's needs, including 'the provision of any additional facilities designed to secure his greater safety, comfort or convenience'. This potentially includes the provision of communication aids. Any provision of an aid either by the NHS or by Social Services must be made free of charge.

Prior to funding being available from Social Services, however, the Local authority needs to decide whether the provision is 'necessary in order to meet the person's needs'. Usually, such a decision is made following an assessment. If an adult may be in need of a communication aid, then their Local Authority should be contacted and made aware of this. Although the Authority should carry out an assessment even if not formally asked to do so, if it is possible that the person has community care needs, it is best to specifically ask for a community care assessment to be carried out.

If, following the assessment, a Local Authority decides that a communication aid is necessary to meet a person's needs, then they are required to provide it. However, if they decide that it is not necessary, then it can be difficult to challenge their decision as, unlike for children with special educational needs, there is no specialist Tribunal to which an

appeal can be brought. The only routes of challenge are through the Local Authority's internal appeals procedures (which can take time and are often difficult to succeed in) and complaints to the Local Government Ombudsman. Only in very rare circumstances can court proceedings be brought, and only if the decision that provision is unnecessary is unlawful.

Funding for Adults in Further and Higher Education

Funds for students in higher education may be available through *Disabled Students' Allowances* and, for students in further education, through the *Access to Learning Fund*.

Disabled Students' Allowances (DSAs) are awarded by Local Authorities to students in Higher Education (primarily Universities), and applications should be directed to them in the first instance. As above, the Authority will usually require an assessment before determining what provision to make through the DSA. DSAs are intended to cover the extra costs that students may have as a result of their disability; they are not generally meant for disability-related costs that a person has whether or not they are a student. Accordingly, Communication Aids may be covered under the scheme, but it will depend on the precise circumstances. In particular, if a student needs a communication aid anyway (not only for education but also for general living) then it may be that it would be outside the limits set out above, and the route for seeking it would be the NHS/Social Services route. If the need for a communication aid arises only when the student is at University, then it may well be covered under the DSA scheme. The scheme covers 'specialist equipment' up to a limited cost – currently around £4,800 for the entire course, although it is revised regularly – and any equipment remains the property of the student after they leave.

The Access to Learning Fund is distributed by individual institutions (both in Further and Higher Education) for students on low income. It is not limited to disabled students, although such students are given a high priority within the scheme. It is meant to meet costs that cannot be met in by other grants, and is meant in particular to help to students who may be considering giving up their course because of financial problems. A communication aid would, normally, be sought through a DSA (where it is available), but the Access to Learning Fund could provide for it if no other source of funding is available (and for students at Further Education Colleges, this may well be the case).

Funding from Employers

In addition, for those in employment, it may be possible to utilise the Government's *Access to Work Scheme* (AWS) to fund or part fund the cost of communication equipment. AWS is available to help overcome the problems resulting from disability. It offers practical advice and help in a flexible way that can be tailored to suit the needs of an individual in a particular job. As well as giving advice and information, Jobcentre Plus pays a grant towards any extra employment costs that result from a person's disability, including equipment. If you are looking for work, you should contact the Disability Employment Advisor at your local Jobcentre. If you are already employed, you may wish to ask your employer to contact them instead.

Disability Discrimination Act

In theory, employers, service providers and post 16 education providers may have an obligation to assist with funding of equipment as a *reasonable adjustment* through the Disability Discrimination Act 1995 (DDA).

The DDA applies only to people who are disabled within the particular definition given in the Act. That definition is different from the definition in other areas of the law, and so the fact that a person is disabled for other purposes (such as eligibility for welfare benefits) is not conclusive. The question is whether the person has a:

“mental or physical impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities”.

Eight ‘Day to day activities’ are set out and include ‘speech, hearing or eyesight’. Most people who have a communication impairment which is sufficiently serious to require a communication aid will accordingly be disabled, although ultimately the issue is likely to be whether their impairment has a substantial and long-term adverse effect on their speech.

Employers, Providers of Goods and Services and Educational Institutions all have duties under the DDA not to discriminate against disabled people. They must of course be made aware of a person’s disability before they can be required to make adjustments for that person. Although there are differences in the detail of the duty in each case, all three are required to make ‘reasonable adjustments’ to ensure that disabled people (be they employees, service users or students) are not placed at a substantial disadvantage compared to non-disabled people.

It may well be the case that a disabled person would be at a substantial disadvantage if they did not have a communication aid. 'Substantial' in this context means only 'more than minor or trivial'. However, even if a communication aid may remove such a disadvantage, it may not be 'reasonable' for it to be provided.

Whether something is reasonable or not depends on all of the circumstances. Cost may be a relevant consideration, although the availability of external funding (as described above, the Access to Work scheme for employers or Disabled Students' Allowances for Universities) may make it hard to argue that it would be too expensive. However, rather than the employer or university providing a communication aid themselves, it may for example be reasonable for them to assist, first, with an application for funding from one of those other sources.

If an employer, provider of services or educational body fails to make a reasonable adjustment required by the DDA, then it may be possible to take Court proceedings against them. However, if you are considering this then you should seek legal advice first. Advice is also available from the Disability Rights Commission (on their website www.drc-gb.org, or their Helpline 08457 622 633).

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