

Let's be reasonable



Disability equality in the workplace

A report by UNISON

1. Executive summary

1.1 UNISON undertook a survey of disabled workers' experience at work in the autumn of 2019.

1.2 Key findings from the survey were as follows:

- 34% of workers who told their employer they were disabled said the employer wasn't supportive of them
- 50% of respondents said they faced barriers to doing their job that could be removed through adjustments
- Of those who requested reasonable adjustments, 67% had some or all refused
- 23% of those who required adjustments had waited a year or more to receive the adjustments they needed
- 57% did not know if their employer allowed paid disability leave and 65% did not know they could ask for it
- Only 8% of those requiring adjustments had been allowed disability leave as a reasonable adjustment
- 65% sometimes felt pressured to come to work even though they were sick and it related to their disability
- 31% felt they had been unfairly treated because of their disability-related sickness record and of these 45% had been subject to a capability process and 28% had been subject to a disciplinary
- 23% said they did not have equal access to training and 32% said they did not have equal access to promotion
- Respondents reported the following issues:
 - Employers frequently don't respond to requests for reasonable adjustments
 - Where they do respond they often give no reason for a refusal
 - Where adjustments are agreed there is often an unreasonable waiting time or the adjustments just never happen
 - Disabled workers often face unnecessary sickness absence, capability and disciplinary proceedings and potential job loss as a result.

1.3 Recommendations include:

- better enforcement of the right to reasonable adjustments
- statutory guidance on timescales for implementation
- a stronger right to disability leave.

2. About UNISON

- 2.1 UNISON is the UK's largest trade union with 1.3 million members. Our members are people working in the public services and for private contractors providing public services, including in the essential utilities. They include frontline staff and managers working full or part time in local authorities, the NHS, the police service, colleges and schools, the electricity, gas and water industries, transport, non-departmental public bodies and the voluntary sector.
- 2.2 Based on government data, we estimate that we have between 160,000 and 200,000 members who are disabled.
- 2.3 UNISON is committed to self-organisation and has a strong self organised disabled members group which operates on a branch, regional and national level. Members and activists have increasingly raised the issue of access to reasonable adjustments and to disability leave which was the driver for our Workplace Disability and Health survey.

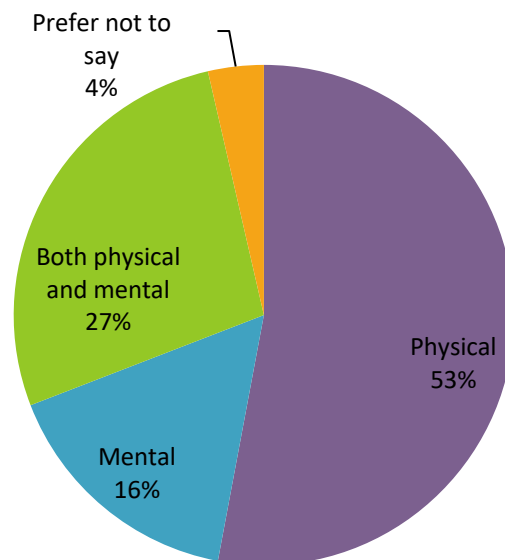
3. Methodology

- 3.1 The online Workplace Disability and Health survey was distributed via a targeted eBulletin to UNISON members who identify as disabled in September and October 2019. The survey was included in a general email bulletin sent to activists and to all members. It was also publicised using UNISON social media channels so that non members could participate. Respondents were asked a number of questions relating to their experience at work.
- 3.2 Where a respondent said they did not identify as disabled or did not have a mental or physical impairment likely to last 12 months or more then they were disqualified from completing the survey.

4. Respondents

- 4.1 There were 2,873 complete responses to the survey but up to 3,195 people answered some of the questions.
- 4.2 Reflecting the primary communication channels used to publicise the survey, 97.6% of respondents said they were UNISON members.
- 4.3 When asked if they were disabled, 77% said they were. However, when further probing took place almost all the remaining respondents said that they had a mental or physical health condition or impairment that was likely to last 12 months or more. This highlights the issue UNISON reps often find where disabled workers do not realise they may well fit the Equality Act definition of “disabled” and may be entitled to protections at work.
- 4.4 While 53% of respondents said that their impairment was physical, 43% said their impairment was mental or mental and physical. Many of these respondents will have non-apparent impairments and will not fit the stereotype employers often have of a disabled person.

Is your disability or health condition or impairment physical or mental or both?



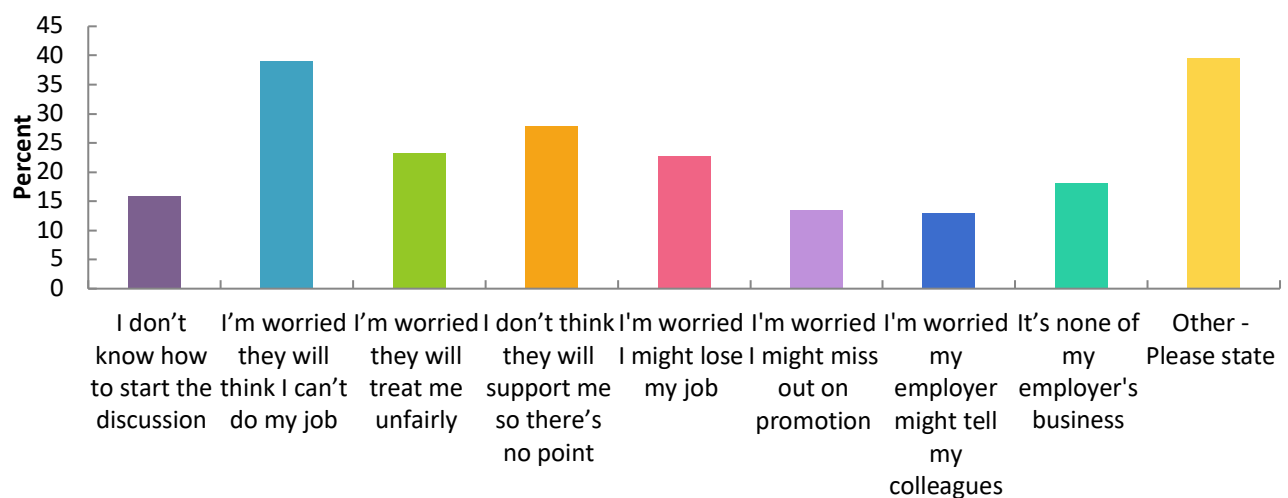
- 4.5 Over 70% of respondents identified as women and 82% as White UK. 55% were in fulltime employment and 33% were in part-time employment. Over 50% earn £20,000 or less a year.
- 4.6 Responses were fairly evenly spread throughout the UK with the lowest response rate from Northern Ireland and the highest response from the North West. 38% of respondents work in local government and 32% work in health.

5. Disclosure of disability status

5.1 We asked if respondents had told their employer they were disabled or had a health condition or impairment. 93% of respondents who answered this question said they had told their employer that they were disabled or had a health condition.

5.2 When we asked the 7% who had not told their employer they were disabled why this was the case, the biggest concern was a worry that the employer would think they couldn't do their job.

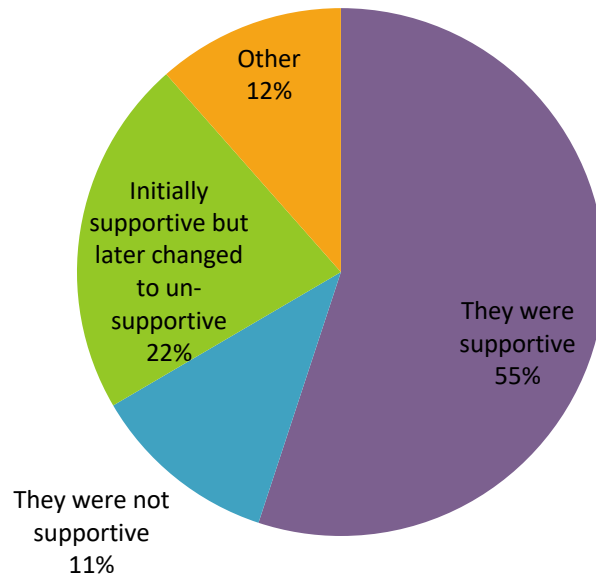
Why haven't you told your employer that you are disabled or have a health condition or impairment? (Tick all that apply)



5.3 Of the 93% who had disclosed their impairment or health condition to their employer, 55% reported that they experienced a positive response. Building on best practice amongst these employers will be crucial to improving the experience for those who had more negative response to their disclosure.

5.4 However 34% of respondents said their employer was not supportive at all or that they started out supportive but then became unsupportive.

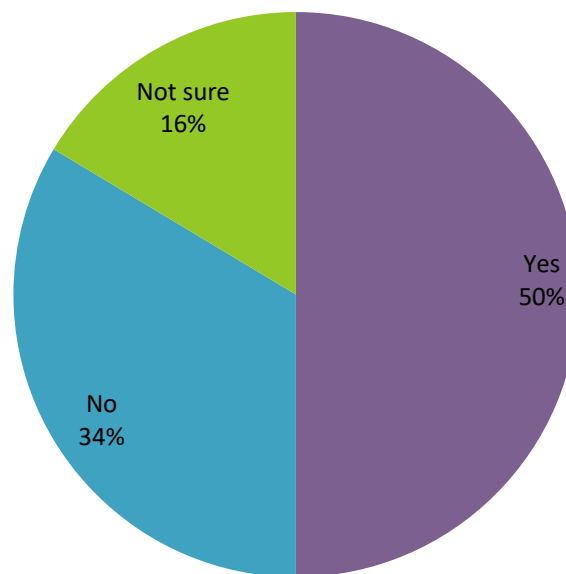
Was your employer supportive when you told them you were disabled or had a health condition or impairment?



6. Reasonable adjustments

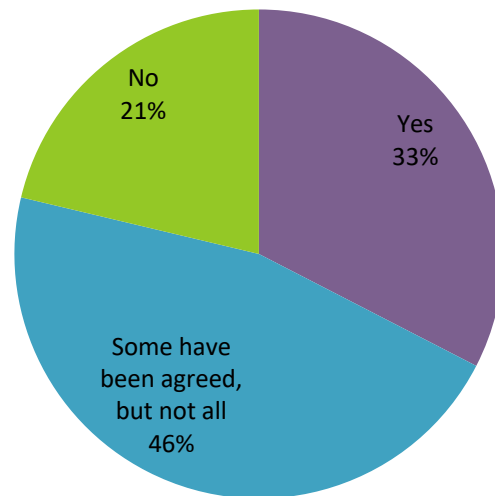
- 6.1 50% of those responding said they faced workplace barriers that could be removed through adjustments whilst a further 16% said they weren't sure.
- 6.2 77% of these had asked for adjustments. This suggests that many did not ask for adjustments they knew they needed. The reasons for this may be similar to the reasons people do not disclose impairments, outlined in Section 4 above.

Do you face barriers or problems in the workplace or in doing your job that could be removed through changes or adjustments your employer could make?



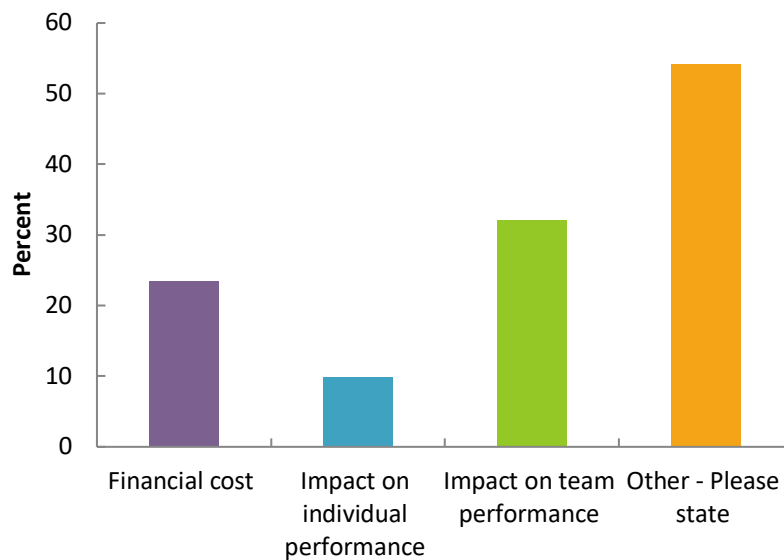
- 6.3 Of those requesting reasonable adjustments, 67.5% had had some or all of their requests refused.

Have all the adjustments you asked for been agreed?



6.4 Of those who were refused reasonable adjustments, 32% cited the impact on team performance as the reason they were turned down. 23% said cost was used as a reason to refuse the adjustments.

What was the reason your employer gave for not making some or all of the adjustments you requested?



6.5 Over half of those turned down said it was for other reasons. Of those, the single most common response was that no reason was given or that the employer just never replied.

“No reason given. They’re always looking into it. I feel like they are trying to make it uncomfortable for me in the hope I will quit.”

- 6.6 Members reported that their requests were often just ignored or refused without any rationale being given for the decision.

“None, but implicitly the feeling was that I was being a pain. So I gave up to avoid getting into trouble”

- 6.7 Another common reason for refusal was that it would be unfair to non-disabled staff and could be seen as favouritism. This suggests a lack of understanding from employers of the requirement to treat disabled staff more favourably where they face a disadvantage at work.

“We have a physically disabled staff member in the office too and both of us having reasonable adjustments may be considered favouritism apparently”

- 6.8 In a number of cases “policy” was stated as a reason for refusal, which suggests a one size fits all approach is being taken by employers. A number of responses related to lack of willingness from employers to consider adjustments to home working and flexible working policies. Hot-desking policies were another area where employers refused to look at adjustments.

“Cannot work from home as no one else in the department can”

- 6.9 Buildings which were unsuitable for adjustments were cited by some respondents, for example where a building is listed or the cost of changes would be prohibitive.
- 6.10 Short staffing was also raised by some respondents as a reason for refusal and this may well link with the impact of austerity and reduced resources for public services.
- 6.11 One respondent explained the disconnect between policies and experience on the ‘shop floor’:

“Despite the organisational policies trying to remove the barriers, the team leaders/managers at local level continue to block or put hurdles in place delaying the adjustments being put in place or refusing them, meaning too many of us resort to using our union reps to force the issue”

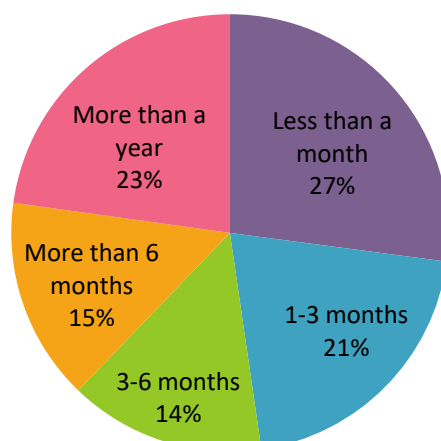
- 6.12 Other respondents stated that although adjustments had been agreed they just weren’t implemented. They reported that repeated promises were made but in practice nothing was put in place.

“They are simple things like breaks in long meetings, water to be available and also for minutes to be taken but the words are said and nothing happens”

Delays to Implementation

- 6.13 Where adjustments were agreed, respondents reported often significant time spent awaiting implementation. While 27% waited less than a month, 23% waited more than a year. Overall, 38% of those who had adjustments agreed waited 6 months or more for implementation.

How long have you had to wait to get the adjustments you needed?



6.14 Members reported that even simple changes, such as an ergonomic chair or commonly used assistive software, could take a long time to put in place.

“It’s very frustrating knowing that a very simple change (re-hanging the kitchen door so it doesn’t bang shut and knock me over) took over a year to get done.”

6.15 One member commented about the wait for adjustments:

“At the time I was being put through an informal capability process. This was whilst waiting for my access needs to be put in. I was so stressed I had to go on beta blockers in order to have supervision with my manager”.

Effect of refusal or delay of reasonable adjustments

6.16 The impact of being refused reasonable adjustments was stark. Many respondents recounted heartfelt and often upsetting stories of how this had effected them physically, emotionally and financially.

6.17 Many respondents reported increased pain levels as a result of being refused adjustments. This included exacerbation of existing impairments and conditions as well as headaches and fatigue. Additional pain was mentioned frequently by respondents as an effect of not having the adjustments they needed.

“My physical health and disability has plunged to its lowest level ever. Mental stress, palpitations and anger that they are rated ‘Disability Confident’”

6.18 A significant number of respondents also reported increased stress levels and a resulting detrimental impact on their mental health.

“Exacerbated my mental health, including brought on panic attacks and nightmares. This has in turn affected my physical health causing me to get worse. I can now no longer work as a result of the severity.”

6.19 A small number of respondents reported suicidal thoughts as a result of their treatment.

6.20 A significant area of concern for respondents was the impact on their sickness absence. Many reported that being turned down for reasonable adjustments had meant they had to take more time off sick which would not have been necessary had the adjustment been provided.

“It has directly resulted in several periods of avoidable absence”

6.21 Many respondents were also concerned about the impact on their productivity and ability to do their job.

“It perpetuates the effect of my condition in a way that makes it more stressful/harder for me to manage at work. It feels like a constant battle when simple things could be done to make it so much easier for me and they would get better performance from me if they did”

6.22 Some reported that they had been financially impacted due to sick pay running out before adjustments were put in place or being pushed into reducing their hours instead of getting the workplace changes they needed.

“I felt I had no option but to take early retirement which resulted in a reduction to my pension.”

6.23 Respondents reported feeling undervalued as a result of not having the adjustments they need. Some said they felt worthless.

“I feel demoralised, undervalued and saddened. I can no longer move forward with my career or apply for any head office roles”

6.24 There was a general feeling from respondents that being refused reasonable adjustments made them feel like they were a nuisance or a trouble maker and this stopped some from taking the matter further.

“Makes me feel that I am a problem and I’m the ‘too hard to deal with’ box”

6.25 There was a particular pattern of respondents who are hard of hearing reporting that they felt isolated at work due to being unable to hear what was happening in meetings or in open plan offices.

6.26 A worrying number of respondents reported that they had had to leave their job or were sacked as a result of not being able to carry out their role as reasonable adjustments had not been provided. Whether this was due to resignation, dismissal, redundancy or being pressured into taking medical health retirement, respondents felt that they had been forced into this position due to failure to provide reasonable adjustments.

“I could not carry on in the noisy environment. It made me too stressed to keep working much longer as it was going to lead to a situation where I wouldn’t be able to function at work. Failure to provide sound boards when requested after 18 months resulted in me leaving voluntarily after 24 months as I could not cope much longer.”

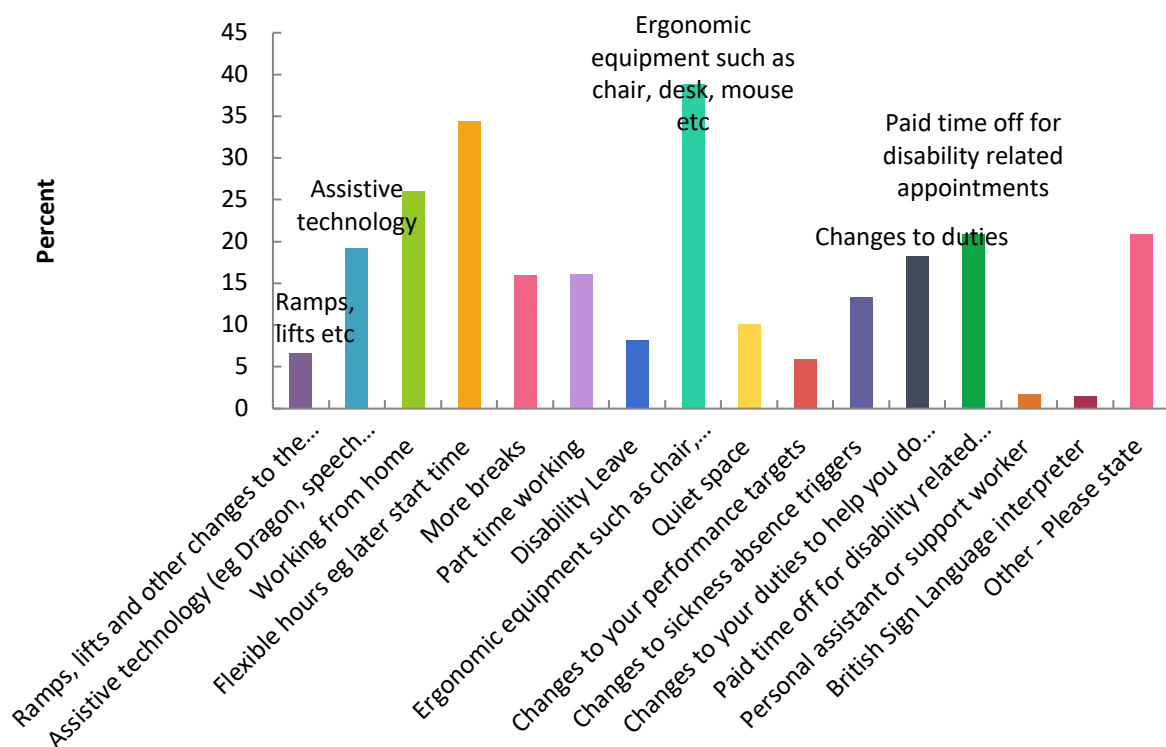
One member stated:

“I feel I am in a constant battle to remain in work. Reasonable adjustments at sickness review are agreed, initially they are carried out and then start failing. Emotionally I’m at the point where I’m beginning to think about giving my job up because fighting my condition is tiring enough!”

Types of adjustments

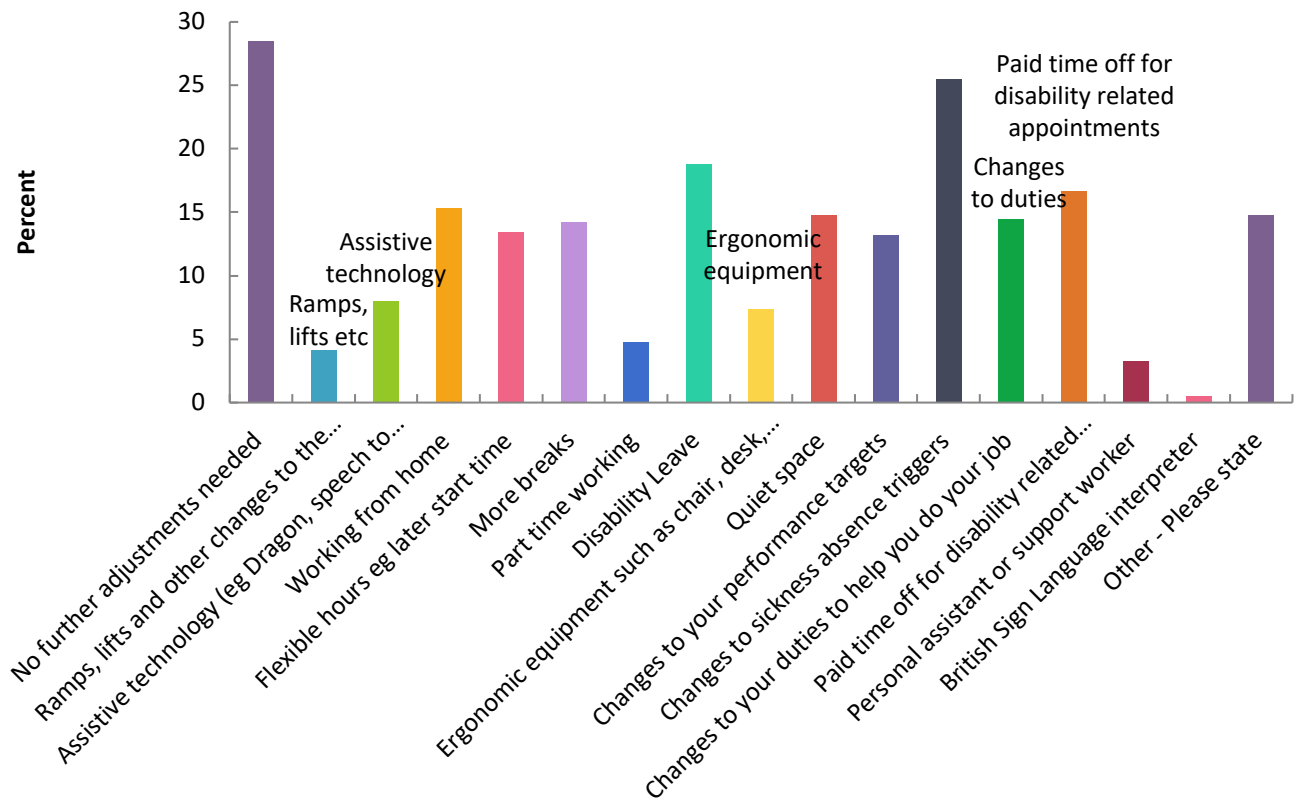
6.27 The most common type of adjustment respondents reported being put in place was ergonomic equipment such as adapted chairs, desk or mouse. This was followed by flexible hours and working from home. Personal assistants, British Sign Language interpreters and physical changes to the building such as ramps and lifts were the least commonly provided.

What adjustments has your employer put in place for you? (Tick as many as apply)



6.28 Respondents were asked if they had additional adjustments that had not yet been agreed. The biggest un-met need was in changes to the sickness absence triggers, with 25% of those responding to this question highlighting this as an area where they required further adjustments. The related issue of disability leave was second highest area of un-met need, emphasising sickness absence policies as an area for consideration.

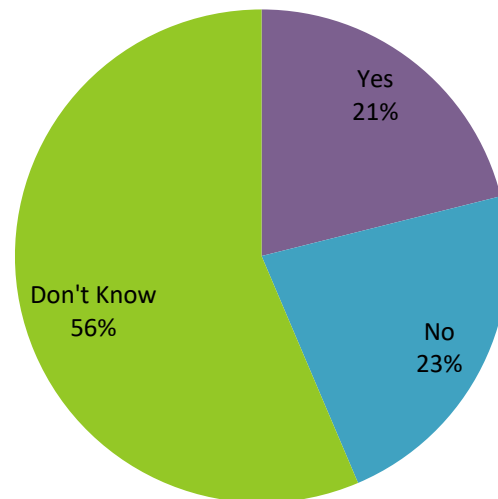
Are there any other adjustments you need or that have not yet been agreed? (Tick as many as apply)



7. Disability leave

- 7.1 UNISON stewards frequently have to deal with employers who do not recognise disability leave as a reasonable adjustment. This is despite disability leave being listed as an example of a reasonable adjustment in the Code which accompanies the Equality Act 2010. 21% of respondents said their employer offered disability leave and 23% said they did not. However a worrying 56% simply did not know if it was offered.

Does your employer allow staff paid disability leave?

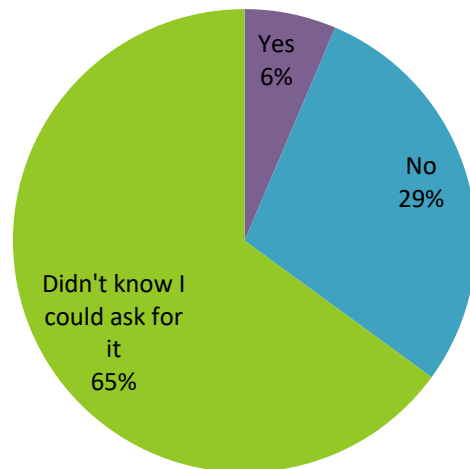


- 7.2 Many respondents were keen to know more about disability leave and felt it would make a difference to their workplace experience.

“My workplace definitely does not have disability leave and I have had to attend meetings with HR relating to disability-related absences. I was told at the meeting that these were putting pressure on my colleagues.”

- 7.3 This lack of awareness was borne out when we asked if respondents had ever been turned down for disability leave. 65% did not know they could ask for it.

Have you ever been turned down for disability leave?

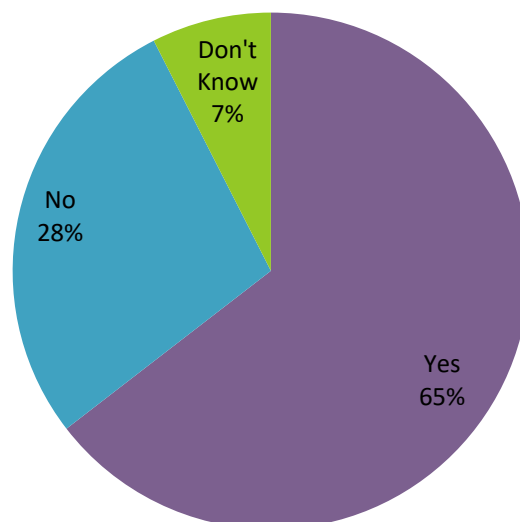


7.4 Where disability leave was allowed, some felt it was overly bureaucratic or was not publicised properly.

“It’s very unclear and not promoted, managers are not clear on what is allowed”

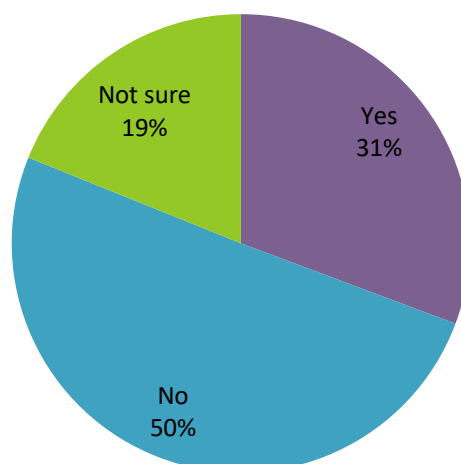
7.5 With so many disabled workers not knowing they could be eligible for disability leave, it’s not surprising that 65% of respondents sometimes felt pressured to come to work even though their sickness was disability related.

Do you sometimes feel pressured to come to work even though you are sick and it relates to your disability or health condition/impairment?



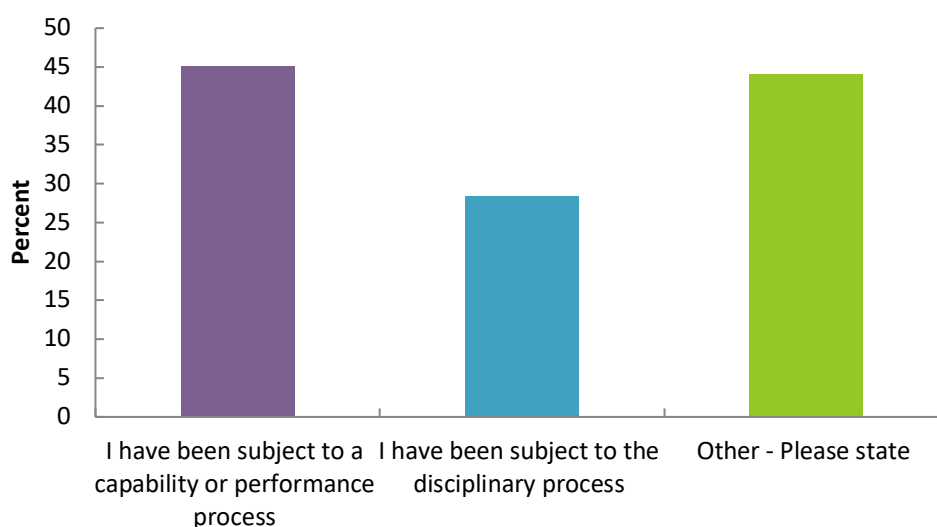
7.6 With only 6% having been granted disability leave, again it is unsurprising that almost a third of respondents felt they had been treated unfairly because of their sickness absence.

Do you think you have been unfairly treated because of your disability-related sickness record?



7.7 When those who reported unfairness were asked how they were treated unfairly, the biggest issue raised was being subjected to capability process. 45% of respondents found their sickness absence lead to capability proceedings. 28% reported that they had been subjected to a disciplinary procedure due to their sickness absence. It is important to note that both capability and disciplinary can lead to the worker losing their job.

Please tell us how you feel you have been treated unfairly because of your disability related sickness



7.8 44% of respondents said that they were treated unfairly in another way. Of these, a large number reported that they had been unfairly subjected to formal absence management procedures that included 'trigger' points which were not adjusted to take account of disability related sickness.

7.9 A number reported that they were then subject to absence monitoring which meant they were unable to take time off sick at all for a given period, even where it was disability related.

“I was put on a plan which required me to not be off sick at all for 12 months straight and told to use annual leave when I was sick in order to achieve that. I felt I was set up to fail.”

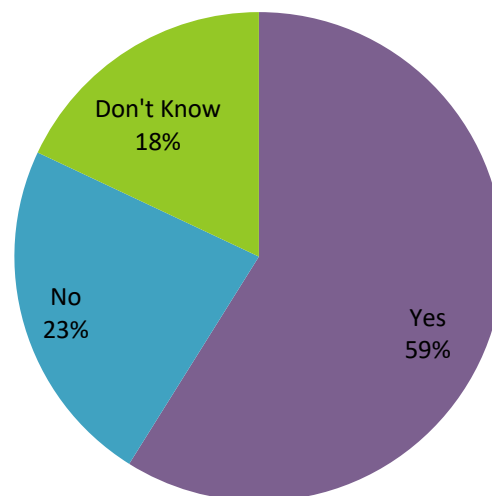
7.10 A number of respondents reported being threatened with action such as capability or disciplinary.

“Sickness review with HR after sick leave regardless of reason - triggering reviews all the time and veiled threats on my competence and ability to do my job. I just need time to adapt and get used to meds and threats don’t help”

8. Training and promotion

- 8.1 There was a more positive response to questions regarding training and promotion. 59% of respondents felt they had been treated fairly when it came to access to training opportunities. However almost a quarter felt that they had not been treated fairly in relation to training opportunities.

Do you think you have had equal access to training opportunities compared to colleagues who are not disabled or do not have a health condition or impairment?

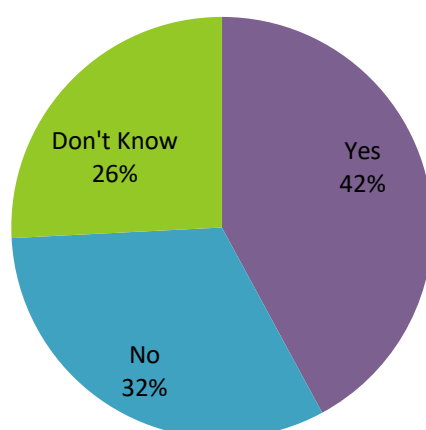


- 8.2 The biggest concerns were accessibility of training venues and materials. A number of respondents complained that external training was often in unsuitable buildings or required substantial travel. Lack of toilet breaks was also raised. There were also complaints that online training materials were not subtitled or were not accessible for partially sighted or blind staff.
- 8.3 In terms of promotion, some respondents said they were not seeking promotion. However for many this was because they struggled so much just to stay in work, they felt that promotion simply wasn't an option. In many cases respondents had decided not to apply for promotion as they felt they would inevitably be turned down.

"Because my health issues are treated as competency related I feel that there is little likelihood of promotion"

- 8.4 42% of respondents felt they had been treated fairly in relation to promotion opportunities. However almost a third felt they had not been treated fairly.

Do you think you have had equal access to promotion opportunities compared to colleagues who are not disabled or do not have a health condition or impairment?



8.5 A considerable number felt that their route to promotion had been blocked due to their sickness record.

“I have been told it would not be wise to apply for roles internally due to my sickness record, which feels discriminatory given the circumstances”

8.6 Another very significant issue for respondents was part time working. Significant numbers reported that more senior roles only seemed to be open to full time staff and their disability-related part time working therefore meant they were unlikely to be considered. This was a recurrent theme in responses to this question.

“I have openly been told that I will not be considered for promotion because I work part time and they want someone full time and also because I could be off sick more than others”

8.7 Many other respondents felt that an often unnecessary requirement to drive or travel meant that they had been turned down for promotion.

8.8 Some respondents said that having a mental health condition was a particular barrier to advancement at work, with employers still reluctant to promote those who have experienced spells of sickness related to depression or other mental health problems.

“My physical disabilities didn’t hamper anything but my mental health made it impossible for me to think about promotion and when I was well again people still thought/treated me as if I was still ‘mental’. I tried several different approaches to demonstrate I had delivered work even when I was unwell and now that I was well, I could take on more responsibility/promotion but the damage had been done. I came to hate the ‘There, there’ look!”

8.9 There were also comments from some in relation to lack of adjustments to the interview process. Neurodiverse respondents particularly stressed this.

“My unwillingness/inability to show ‘passion’ and other neurotypical responses to the wonderful world of work does me no favours”

8.10 Finally, there were respondents who felt that gender, race and particularly age discrimination were more of a factor in how they were treated in relation to promotion, emphasising the importance of bringing an intersectional approach to understanding the issues disabled people face in the workplace.

9. Conclusion

- 9.1 It is clear from the above that disabled workers are being turned down for reasonable adjustments in large numbers and are experiencing unnecessary physical pain, mental health problems and job loss as a result.
- 9.2 There is also an impact on the economy with many disabled workers forced out of employment due to lack of reasonable adjustments or unable to perform at the level they know they could if only adjustments were in place.
- 9.3 With disabled workers often having to give up their job or forgo promotion due to lack of adjustments, it is unsurprising that the disability pay gap still stands at 15%.
- 9.4 Disability leave is virtually unknown in the workplace and disabled workers use annual leave to cover periods of disability-related sickness in order to avoid formal sickness proceedings.
- 9.5 There are tens of thousands of disabled workers who are being let down by equality legislation which is not being properly enforced in the workplace.

10. Recommendations

- 10.1 UNISON believes that there needs to be far better enforcement of the right to reasonable adjustments in the workplace. This could take the form of a standalone enforcement body similar to the National Minimum Wage Enforcement Agency. It should have powers to recommend adjustments and to levy meaningful financial penalties.
- 10.2 There should be statutory timescales within which an employer needs to respond to a request for reasonable adjustments so that they do not just ignore requests. Employers should also have to give reasons for a refusal, set out in writing.
- 10.3 Where adjustments are agreed there should be statutory guidance on reasonable timeframes for implementation and ways of enforcing this.
- 10.4 UNISON believes that there needs to be a much stronger right to disability leave as a reasonable adjustment so that employers are aware of this and can publicise it to staff. This could take the form of an amendment to the Equality Act to specifically refer to disability leave or a much stronger statutory code which outlines in more detail circumstances where disability leave would be appropriate.
- 10.5 There should be a clear statement that disability leave is a right where a disabled worker is waiting for reasonable adjustments to be implemented. This would go some way towards pushing employers to act more swiftly in implementing adjustment.

