

August 2017

PSNC Briefing 60/17: Equality Act 2010 – a quick reference guide

PSNC has received a number of questions from community pharmacy contractors asking about the requirements of the Equality Act and specifically about dispensing in Monitored Dosage Systems (MDS). Whilst the existing PSNC guidance at psnc.org.uk/ea remains accurate, the PSNC Regulations & Support Team has sought and obtained legal advice to clarify and confirm key aspects of that guidance which are outlined below.

This briefing aims to help contractors understand:

1. Their obligation to make “reasonable adjustments” under the Equality Act;
2. When medicines must be dispensed in monitored dosage systems (MDS) or another reasonable adjustment should be made; and
3. Whether there is a duty to provide free home delivery.

1. The Equality Act

The duty to make “reasonable adjustments”

Community pharmacies must make “reasonable adjustments” to ensure persons with disabilities can access pharmacy services. A person with a disability must not be put at a *substantial disadvantage*¹ when compared to persons with no disabilities in accessing services that are provided by the pharmacy.

The Equality Act requires that a reasonable adjustment is made to help a disabled person overcome the obstacles to using the service. [The Royal Pharmaceutical Society has published [guidance](#) on the better use of multi-compartment compliance aids and this should be considered by pharmacists.]

What is a “reasonable adjustment”?

There is no definition in the Act, but contractors should consider what would be *reasonable* in the circumstances, taking into account the following (non-exhaustive) list of factors²:

- the effect of the disability on the individual person with disabilities;
- whether taking any particular steps would be effective in overcoming the substantial disadvantage that people with disabilities face in accessing the services in question;
- the extent to which it is practicable for the community pharmacy to take the steps;
- the financial and other costs of making the adjustment;
- the extent of any disruption which taking the steps would cause;
- the extent of the community pharmacy’s financial and other resources;
- the amount of any resources already spent on making adjustments;
- the availability of financial or other assistance; and

¹ See [s20 of the Act](#)

² See Equality & Human Rights Commission’s [Statutory Code of Practice](#), Para 7.29-7.32

- health and safety matters.³

A “reasonable adjustment” does not necessarily mean that every adjustment that is *possible*, should be made or is a reasonable one. The duty to make reasonable adjustments does not require contractors to take a step which would *fundamentally alter the nature of the services*⁴ provided.

Can I charge for a “reasonable adjustment”?

No.⁵ If the adjustment is provided to a person with a disability as a “reasonable adjustment”, then no charge can be recovered for it.

2. Monitored Dosage Systems (MDS)

Is MDS the only “reasonable adjustment” that can be made?

No. There are other adjustments that pharmacies can make.

Other compliance aids such as easy-open containers, reminder charts/alarms, dexterity aids, winged or plain bottle caps could be appropriate if the pharmacist decides with the patient, that this will assist the patient to use the service.

The Royal Pharmaceutical Society states:

The use of multi-compartment compliance aids (MCA) has become regarded as a panacea for medicines use and is often integrated into practice and service policy **without giving due consideration to the alternatives available**⁶ [our emphasis]*

There are many ways in which patients can be helped to take their medicines safely, or carers supported to administer medicines correctly. Interventions include, medication review to reduce inappropriate polypharmacy and simplifying regimen which is particularly important as the number of prescribed medicines has been shown to be a powerful predictor of non-adherence, patient counselling to improve understanding of medicines-use, the use of reminder charts (as a memory aid), the use of medicines administration record (MAR) charts, labels with pictograms, large print labels, information sheets, reminder alarms, IT solutions and new technology such as phone apps and telemedicine. All of these interventions have a place in ensuring patients take or receive the correct medicines at the right time. The use of an MCA is just one additional intervention in a range of intervention options.⁷

Must I dispense medicines in MDS for convenience?

No. Community pharmacies often get requests for medicines to be dispensed into compliance aids such as MDS trays simply because it would be *convenient*. For example, where the care worker of a housebound patient finds MDS easier and quicker to use than individual manufacturer’s original containers. In these circumstances, this is unlikely to constitute a “reasonable adjustment” for the patient.

³ There may be some instances in which it is potentially detrimental to the health of a disabled person to provide them with MDS, in which case it is highly unlikely to be “reasonable” to provide them with MDS.

⁴ See [paragraph 2 \(7\) to Schedule 2 of the Act](#)

⁵ See [s20 \(7\) of the Act](#)

⁶ See page 5 of the Royal Pharmaceutical Society published [Improving patient outcomes – The better use of multi-compartment compliance aids](#)

⁷ See page 15 of the Royal Pharmaceutical Society published [Improving patient outcomes – The better use of multi-compartment compliance aids](#)

It is also unlikely to be reasonable for a community pharmacy to have to provide MDS if the person with a disability has a professional carer whose role includes assisting with the administration of the patient's medicine.

Pharmacists should use their professional judgement to decide what the appropriate "reasonable" adjustment/s is for an individual patient, not a care worker or other healthcare professional.

7-day prescriptions

Shouldn't a request for MDS always be accompanied by a 7-day prescription?

Not necessarily. There is no fundamental link between dispensing in an MDS and the period of treatment covered by a prescription. A prescription for 28 days' supply might be dispensed in an MDS, and a prescription for seven days might be supplied in the original manufacturer's container.

3. Home delivery

I don't provide home delivery. Must I provide home delivery under the Equality Act?

A community pharmacy that does not currently offer any home delivery services and is not set up to do so, is unlikely to be obliged by the Equality Act to offer a free home delivery service to housebound patients as part of a reasonable adjustment. In this scenario, home delivery is likely to be a *fundamental alteration* to the nature of the services the pharmacy provides.

I do provide home delivery. Must I provide home delivery under the Equality Act?

Community pharmacies already providing home delivery services *may* be required to undertake the home delivery of prescriptions for housebound patients as part of a reasonable adjustment, depending on the factors set out under section 1 of this briefing; and the extent to which it is practicable for the pharmacy to do so and the financial and other costs involved.

Can I charge for home delivery as part of a NHS service?

No. All NHS services must be provided free of charge⁸ except where a charge has been expressly mandated by legislation⁹.

⁸ See [s1 \(3\) of the National Health Service Act 2006](#)

⁹ Community pharmacies may charge for delivery as part of a private service (except where the item is a Part IXA specified appliance).

Further Information

[PSNC Briefing 001/16: Equality Act 2010 \(January 2016\)](#), Pharmaceutical Services Negotiating Committee (PSNC)

PSNC's main guidance document on the Equality Act 2010. Contractors are advised to read this for more detailed information including FAQs tackling scenarios which community pharmacies may commonly face.

[Pharmacy and people with learning disabilities: making reasonable adjustments to services \(June 2017\)](#), Public Health England (PHE)

Guide aimed at staff working in either pharmacy teams or learning disability teams and for anyone who supports people with learning disabilities.

[Reasonable adjustments for disabled people \(last updated 10th August 2017\)](#), Care Quality Commission (CQC)

Please note that this is in the context of an organisation regulated by CQC, i.e. GP practices, though much of the contents may be informative to community pharmacy contractors.

[Disabled access to goods, services and facilities \(December 2015\)](#), House of Commons

This House of Commons Briefing Paper outlines duties under the Equality Act 2010 including a section on the definition of "disabled person".

[Improving patient outcomes – The better use of multi-compartment compliance aids \(July 2013\)](#), The Royal Pharmaceutical Society (RPS)

This resource is essential reading for pharmacists considering whether to supply monitored dosage systems.

[HM Government Equality Act 2010 Guidance \(May 2011\)](#), Office for Disability Issues

This guidance outlines matters to be taken into account in determining questions relating to the definition of disability.

[Services, Public functions and Associations: Statutory Code of Practice \(January 2011\)](#), Equality and Human Rights Commission

This code of practice is relevant to service providers, i.e. contractors.

If you have queries on this PSNC Briefing or you require more information please contact [Gordon Hockey, Director of Operations and Support](#) or [William Goh, Regulations Officer](#).