



Bar Council Equality & Diversity Guides Supporting Colleagues, Pupils and Students with Dyslexia

This document:

- Provides an overview of dyslexia and how it affects individuals;
- provides information to barristers with dyslexia (including pupils), pupil supervisors, chambers and other members of the Bar;
- explains what pupil supervisors and chambers can do to support individuals with dyslexia to achieve their potential; and
- gives an overview of legal and regulatory requirements which individual barristers, and chambers, must comply with (although it does not provide legal advice or guidance)

Dyslexia: what is it?

Dyslexia means 'difficulties with words'.

The British Dyslexia Association uses the following definition of dyslexia¹:

'Dyslexia is a learning difficulty that primarily affects the skills involved in accurate and fluent word reading and spelling.'

Please see the full details of this definition, which are given at the end of this guide.

Dyslexia is a condition which affects approximately 10% of the UK population². It is not a disease to be cured, and people do not 'grow out of it'. It affects people of all racial/ethnic groups, backgrounds and abilities, and dyslexia occurs independently from intelligence. Dyslexia is one of a group of 'specific learning disabilities' which includes dyscalculia (difficulties with arithmetic) and dyspraxia (difficulties with motor co-ordination).

Early recognition and support can help people to deal with the way their dyslexia affects them.

¹ Adopted from Sir Jim Rose's report: 'Identifying and Teaching Children and Young People with Dyslexia and Literacy Difficulties' (2009)

² Source: 'Dyslexia Research Information': British Dyslexia Association (accessed 12 January 2017)

A useful explanation of dyslexia in practice is: ‘if you hold up a pen and say “what is it?” people will say “it’s a pen” however if you ask a dyslexic person they are likely to say, “it’s a pen, it’s blue, it’s about 15cm long” because their brain is programmed to take in more information rather than just stating the obvious. This can be a massive advantage in some cases but disadvantage in others. Another way of looking at dyslexia is it is a bit like asking a person with a broken leg to walk up stairs, they can do it with help, it just takes longer. So people get to the same outcome but have a different way of doing it’³.

Dyslexia as a disability: the Equality Act 2010

The Equality Act 2010 prohibits discrimination related to a ‘protected characteristic’. Disability is one such protected characteristic.

The Equality Act 2010 (section 6) defines a disability as a ‘physical or mental impairment ... [which] has a substantial and long-term adverse effect on [a person’s] ability to carry out normal day-to-day activities’. ‘Substantial’ means ‘more than minor or trivial’⁴. A person’s dyslexia is likely to come within this definition, and so would amount to a protected characteristic.

Accordingly, people with dyslexia should not experience discrimination and must be provided with ‘reasonable adjustments’.

Legal obligations – the Equality Act 2010

This section does not provide detailed guidance on discrimination and reasonable adjustments as that is outside the scope of this factsheet. It does provide a short summary of the key issues.

Section 47 of the Equality Act 2010 contains the provisions covering barristers. It prohibits discrimination in relation to:

- the arrangements chambers use to decide who to offer pupillage or tenancy, the terms offered or not offering a pupillage or tenancy.
- the terms on which someone is a pupil or tenant, in the way the pupil or tenant is afforded access to opportunities for training or gaining experience or for receiving any other benefit or service, by terminating the pupillage or pressuring a person to leave chambers or subjecting that person to any other detriment

It also prohibits a barrister from:

- harassing a pupil or tenant or anyone who has applied for pupillage or tenancy
- victimising another person in relation to recruitment to pupillage or tenancy or the terms on which this is offered or in not offering a pupillage or tenancy

³ ‘Dyslexia and Legal Professionals’ (2015) Ruth L Fenton

⁴ Equality Act 2010 section 212(1)

Reasonable adjustments

The Equality Act 2010 imposes a duty on a barrister to make reasonable adjustments. The legal duty to make reasonable adjustments comprises three requirements to make reasonable adjustments:

- a) Where there is a provision, criterion or practice which puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled;
- b) Where a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled;
- c) Where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in comparison.

Where the provision of information is a requirement under a) and c) it must be provided in an accessible format.

A failure to comply with the duty to make reasonable adjustments is discrimination against the disabled person.

Further information on the types of reasonable adjustment that can be made can be found on the Equality and Human Rights Commission (EHRC) website⁵

Support and professional help

There is a range of support available for people with dyslexia. A starting point is a dyslexia assessment. Full diagnostic assessments should always be carried out by a qualified and certified person. These will be either a Chartered Psychologist⁶ specialising in specific learning difficulties or a qualified specialist dyslexia teacher with a Diploma in Specific Learning Difficulties.

A report from a Chartered Psychologist will usually give a general explanation of dyslexia as well as explaining how the particular person's dyslexia affects them. For example: spelling difficulties or difficulty with unfamiliar words, difficulties in taking in information efficiently, difficulties with time management, difficulties in staying focussed or in screening out background noise/visual stimuli.

The report should outline adjustments that can be helpful. This could include: coloured paper, filters, assistive text software, encouraging the person to take notes (and checking the notes for them) and using mind-mapping software.

⁵ <https://www.equalityhumanrights.com/en>

⁶ This must be a Chartered Psychologist registered with the Health and Care Professions Council (www.hcpc-uk.org)

Information for Chambers:

A. Talking about disability

An individual's disability is personal to them. This means that chambers, and in particular pupil supervisors, need to be sensitive to how someone feels about their disability and issues that relate to it. A fundamental principle is that one should not assume, one should ask the person what they want and need, and respect their position.

Each person will be different. Some may be comfortable freely discussing their disability and issues relating to it. Others may not. That is their choice. It is very important to see and respect the person, not simply their disability. If someone has disclosed that s/he has dyslexia, colleagues and staff may need to speak to them about issues relating to this. For example, to check if they need support and if so, what this could be. These conversations are likely to be best carried out privately and sensitively, rather than in public areas.

There is no requirement on someone to disclose their disability, including dyslexia. In employment situations, an employer only has a duty to make reasonable adjustments if s/he knows or reasonably could be expected to know of the employee's disability. That situation will not apply to a pupil or tenant.

Whether or not someone discloses their dyslexia, and at what stage of recruitment or professional life in chambers, is a personal choice.

It is important to remember that questions or discussions about a person's disability, including what reasonable adjustments they might need as a pupil, should not take place during an interview or at any stage before an offer of pupillage is made. Once the offer is made, chambers can consider what reasonable adjustments are necessary. For more information, see the Bar Council's *Fair Recruitment and Selection Guide*⁷.

B. Steps to take in supporting and managing a pupil with dyslexia

Where a pupil has disclosed that s/he has dyslexia, it is important to develop a clear support plan at the earliest stage. It is best to do this before the person's pupillage starts to ensure that they have access to support right from the outset. Your pupil is at the centre of this support plan, and so you must ensure that s/he is fully involved in developing it.

Dyslexia can be a significant issue for someone. It may cause a person to become stressed and this can exacerbate the difficulties they face with dyslexia. This is why it is very important to talk to that person about the challenges they face and ask how you could support them.

⁷ http://www.barcouncil.org.uk/media/343819/fair_recruitment_guide_2015_april_final.pdf

A pupil with dyslexia may well have had a dyslexia assessment when s/he was a student. This may well need to be updated to take account of the particular requirements and pressures of pupillage. This should be done by a 'workplace assessment'. This will detail the most appropriate accommodations and support, (reasonable adjustments), which would be successful in ameliorating any weak areas and reduce stress. This is not something that either the individual or chambers would be able to work out for themselves.

Where someone applies for funding for reasonable adjustments from Access to Work⁸, this will include a workplace assessment. It is important to ensure that the person carrying out the assessment is a qualified workplace dyslexia specialist. This is to ensure that the assessor is appropriate. The British Dyslexia Association can provide information on assessments. Where a pupil is to have a workplace dyslexia assessment, it may be helpful for a pupil supervisor to speak with the assessor to gain more information and insight into dyslexia and how to support the pupil. This should be discussed with the pupil in advance to ensure that s/he is comfortable with this approach.

TIPS: Points to keep in mind when supervising pupils with dyslexia

- Give clear explanations
- Ensure pupils can make notes during discussions or are able to use a digital voice recorder
- For supervision meetings with pupils:
 - Agree a clear schedule of supervision dates and stick to this unless changes are truly unavoidable
 - Plan ahead what you as supervisor will say
 - Build in additional time for explanations
 - Be patient
 - Use emails or printed documents rather than handwritten notes
 - Remember that someone may get their words mixed or go blank when trying to get words on to paper. This can be extremely frustrating for them because in their head they know what they want to say but it comes out all wrong.
 - Keep up to date with your pupil's progress – this means highlighting any areas for concerns at the time, rather than waiting for a review date at the end of their pupillage period. Deal with issues and move on – remember that a person make be particularly, and understandably, sensitive to issues relating to their dyslexia
 - If there are concerns, discuss these sensitively and devise steps to help the pupil to meet the standards expected
 - Give them positive feedback where this is due – and note this

⁸ <https://www.gov.uk/access-to-work/overview>

Pupil supervisors should ensure that they increase their awareness of dyslexia. Helpful information is available from the British Dyslexia Association (www.bdadyslexia.org.uk)

Reasonable adjustments

Some potential reasonable adjustments include:

- Using coloured overlays, coloured paper and/or pens
- Having instructions printed in larger font on cream coloured paper
- Using a digital voice recorder: this can be connected to a computer to transfer recordings to a document – this can be helpful for taking notes of meetings, including supervision
- Using a 'Livescribe Pen'
- Using computer dictation software (such as Dragon 'Naturally Speaking Legal' or Inspiration)
- Support from a coach or trainer for both the individual with dyslexia and that person's pupil supervisor
- Using time planners, reminders and mind-mapping software
- Using a folder holder for reading so the pages are at an angle
- Ensuring that lighting in the room is right
- Being able to use noise cancelling headphones or have background music

Specialist dyslexia coaches can visit a person's workplace, including chambers, to work with them and any supervisor to suggest adjustments and strategies.

C. Some key points for pupil supervisors⁹

Dyslexic legal professionals can face a number of challenges. These are likely to be different for each person due to the way their dyslexia impacts on them:

- Stereotypes can be significant barrier. Stereotypes can lead to individuals discriminating against a pupil, tenant (or person applying for these positions). 'Dyslexia' can be a label which prevents others from seeing the talents which a person has. Whilst it can be useful 'shorthand', it is important to recognise the person and not only the dyslexia.
- A person may have good speaking skills, but their writing skills may not be at the same level.
- Dyslexic candidates may be put at a disadvantage at an interview when they are asked questions with more than one part, because their working memory is unable to process

⁹ Adapted from 'Dyslexia and Legal Professionals' (2015) Ruth L Fenton

all the information at once. This is why you need to carefully plan your interview questions.

- Time keeping may be a challenge and where this is not to the standard required, it can be the issue which leads to a person disclosing their dyslexia or which leads to them seeking a dyslexia assessment,
- People with dyslexia are often perfectionists as they realise they make mistakes and want to get things correct to avoid the criticism of others. This may lead to them taking longer to complete tasks than expected.
- Finding out you are dyslexic can be very emotional.
- Under pressure, errors due to dyslexia can be more obvious

D. Recruitment

It is highly likely that chambers will need to make reasonable adjustments for people with dyslexia who apply for pupillage or tenancy or who wish to be considered as a squatter. The provisions of the Equality Act 2010 (see above) apply to the entirety of the recruitment process. It is essential that chambers consider how the different stages of the recruitment process may impact on an applicant with dyslexia, and therefore the reasonable adjustments which may need to be made to each stage. Doing so in advance of an application can assist chambers to effectively plan for such adjustments and enable these to be more easily provided; rather than trying to do so when time and resources may be limited.

Designing application forms and processes: potential reasonable adjustments include ensuring application forms are clear and clearly set out. Instructions or guidance notes on how to complete the application form and what, if any, supporting documentation is required should be written in clear and direct language.

Consider not using psychometric testing as part of an application process. There is evidence to indicate that certain classes of people may be disadvantaged by multiple choice questions.

First consideration/paper sift stage: spelling or typographical errors should be disregarded.

Interviews: using well thought out questions can assist candidates with dyslexia who may have difficulties with working memory and so in processing information. Using clear direct questions, and avoiding multi-part questions, can help candidates to give clear answers and so enable chambers to get the best from a person.

Interviewers may need to prompt candidates to rephrase their answers to interview questions if they have not been clear on the first occasion.

If presentations or 'unseen' written work, such as an opinion, is part of the recruitment process chambers should allow candidates additional time to review materials and produce the document. Allowing 25% extra time is usual¹⁰.

Allow candidates to use a coloured overlay when viewing materials or print onto coloured paper – but check with the candidate what they need.

Provide a computer with word processing software, including spell-checker, for candidates.

The fundamental principle when making reasonable adjustments is always to ask the person what they need. The person is the expert in how their impairment affects them and so is in the best position to assist you to make reasonable adjustments.

When planning what adjustments to make, you should seek information from expert sources. This can include specialist organisations such as the British Dyslexia Association. The *Technical Guidance* highlights this point and chambers are expected to do so.

Ensuring that the people responsible for and involved in recruitment have attended the Bar Council's *Fair Recruitment and Selection* course can be a way to ensure that chambers uses fair procedures and can demonstrate that it has taken reasonable steps to eliminate discrimination.

Information for Pupils and Tenants with dyslexia – points to consider

Disclosure

Not every disability is immediately apparent. Where someone's disability is not immediately apparent, they may be concerned at what other people may think and so may be reluctant to disclose their disability. This is the person's choice which should be respected.

A related point is that it is advisable for the individual to be aware that a consequence of not disclosing is that Chambers would not be subject to a duty to make reasonable adjustments for an applicant for pupillage or tenancy or a pupil or tenant.

This could mean that a disabled pupil who needs a reasonable adjustment(s) in order to effectively undertake pupillage, but does not disclose his/her dyslexia, could have difficulties in demonstrating his/her abilities and thus be at a disadvantage. This is a point that a pupil should carefully consider in relation to disclosure.

A similar point could apply in relation to a person applying for tenancy.

¹⁰ Dyslexia Scotland: applications and interviews, a guide for people with dyslexia (http://www.dyslexiascotland.org.uk/sites/default/files/page_content/Applications_and_interviews_for_employees.pdf) 25% extra time is the standard adjustment used by exam boards such as JCQ

What support you could expect

Pupils who disclose their disability, can expect their prospective Chambers to engage with them in advance of starting pupillage in order to discuss what reasonable adjustments they may need in pupillage.

As part of this process, a pupillage supervisor should contact their Chambers' Equality and Diversity Officer or the Bar Council's Equality, Diversity and Social Mobility Committee for advice¹¹.

Pupils can expect to be able to speak directly to their Chambers' Equality and Diversity Officer for advice and support and to be able to contact the Bar Council EDSM Committee directly for advice from its Panel of Disability Advisors¹².

¹¹ equality@barcouncil.org.uk

¹² <http://www.barcouncil.org.uk/for-the-bar/practice-updates-and-guidance/equality-and-diversity-guidance/disability-panel-of-advisers/>

Appendix:

Further information and links

British Dyslexia Association (<http://www.bdadyslexia.org.uk/dyslexic/definitions>)

'Dyslexia is a learning difficulty that primarily affects the skills involved in accurate and fluent word reading and spelling.'

Characteristic features of dyslexia are difficulties in phonological awareness, verbal memory and verbal processing speed.

Dyslexia occurs across the range of intellectual abilities.

It is best thought of as a continuum, not a distinct category, and there are no clear cut-off points.

Co-occurring difficulties may be seen in aspects of language, motor co-ordination, mental calculation, concentration and personal organisation, but these are not, by themselves, markers of dyslexia.

A good indication of the severity and persistence of dyslexic difficulties can be gained by examining how the individual responds or has responded to well founded intervention.'

In addition to these characteristics, the BDA acknowledges the visual and auditory processing difficulties that some individuals with dyslexia can experience, and points out that dyslexic readers can show a combination of abilities and difficulties that affect the learning process. Some also have strengths in other areas, such as design, problem solving, creative skills, interactive skills and oral skills.

British Dyslexia Association's Good Practice Guide for Justice Professionals

(http://www.bdadyslexia.org.uk/common/ckeditor/filemanager/userfiles/Justice_guide_to_SpL_Ds.pdf)

The Helen Arkell Centre is a charity that provides information and support on dyslexia, including assessments: www.helenarkell.org.uk

TUC: Dyslexia in the Workplace (Trades Union Congress publication)

https://www.tuc.org.uk/sites/default/files/Dyslexia_In_The_Workplace_2013_LR.pdf

Access to Work www.gov.uk/access-to-work/overview

LawCare can provide information and support to assist dyslexic legal professionals to manage stress, including stress connected with their dyslexia: www.lawcare.org.uk