

## **Fitness to Teach**

### **Moxi Recruitment Limited (“Moxi”)**

Employers of existing and prospective teachers, lecturers and those entering initial teacher training have a responsibility to ensure that employees have the health and physical capacity to teach and will not put children and young people at risk. The obligation to protect children under 18 in this way must be weighed against the duties on education providers that arise under the Disability Discrimination Act 1995, which gives a duty to make 'reasonable adjustments' so employees are not put at a disadvantage by employment policies, practices and procedures or any physical feature of the workplace.

The Education (Health Standards) (England) Regulations 2003 set out staffing activities where employers must consider the individual's fitness:

- planning and preparing lessons and courses for children
- delivering lessons to children
- assessing the development, progress and attainment of children
- reporting on the development, progress and attainment of children
- an activity that assists or supports teaching
- supervising, assisting and supporting a child
- an administrative or organizational activity that supports the provision of children and an activity that is ancillary to the provision of education

Delivery of lessons also includes delivery via distance learning or computer-aided techniques. A 'worker' means a person whose work brings him or her into regular contact with children and young people under 18.

### **Disability Discrimination Act**

When determining 'fitness' there is a duty under the Disability Discrimination Act 2005 not to discriminate against a disabled person for a reason related to his or her ability, in all aspects of employment, unless this can be justified. Unfavorable treatment can never be justified if the employer could have made reasonable adjustments — unless adjustments would have made no difference. Less favorable treatment may be justified on the grounds that either:

- it is the result of a permitted form of selection, or
- there is a 'material and substantial' reason for it

This means that the school or local authority must have a good reason for not engaging the individual, which is relevant to his or her circumstances after taking into account any reasonable adjustments required. The Disability Discrimination Act defines a disabled person as someone who has a physical or mental impairment that has a substantial and long-term effect on his or her ability to carry out day-to-day activities. People with disabilities and long-term health conditions can and do make an important contribution to the school curriculum — as employees, in raising the aspirations of disabled pupils, and in educating non-disabled people about what it's like to have a disability.

### **Duty to promote equality**

In 2006, the Disability Discrimination Act amendment regulations introduced changes to employment in the education sector, dealing with post-16 education.

In addition, the Disability Discrimination Act 2006 introduced a new statutory duty on all public authorities, including universities, to promote disability equality.

This includes the positive duty to promote equality of opportunity between disabled people and those who are not disabled, and to promote positive attitudes towards disabled people.

### **Moxi Policy**

It is Moxi policy therefore to ensure that all candidates confirm in writing whether they feel they have any health concerns which may hinder their ability to complete the role, furthermore whether there are any reasonable adjustments that an employer can make to help facilitate their ability to deliver against the specific role profile.

Teachers who are supplied on a temporary, interim or supply basis will need to adhere to the client schools individual staff sickness and absence policy. Should they feel they are being unfairly treated in this regard then they should either follow the individual complaints procedure at the client school they are working for at the time or alternatively they can follow the Moxi complaints policy.