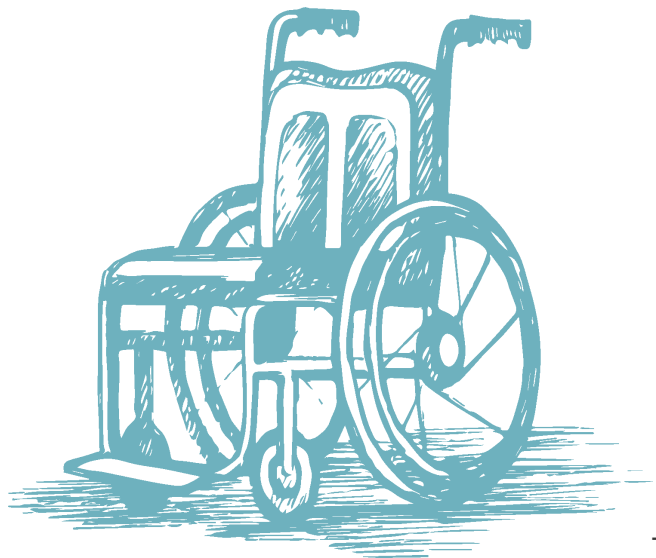


# Accommodating Disabilities in the Workplace

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The UAE Federal Cabinet passed a resolution in July 2018 (No 43 of 2018) regarding supporting individuals with a disability in the workplace (the 'Resolution'). The overall purpose of the Resolution is to assist people with a disability to enter and remain in the workforce and to engage in active and productive employment on an equal basis with their colleagues, notwithstanding their disability. The Resolution applies to governmental entities, private sector employers and non-profit organisations.

For the purpose of the Resolution, individuals are considered to be 'people of determination' if they have a permanent or temporary disability or deficiency in their physical, sensory, mental, communicative, educational or psychological abilities which adversely affects their ability to perform their work compared to other people without a disability. For the purpose of this article such individuals are referred to as 'people with a disability'.

## **Non-discrimination against People with a Disability**

A key underlying principle of the Resolution is that people with a disability should be protected against discrimination. The Resolution defines discrimination as any distinction, exclusion or restriction based on a person's disability with the aim or effect of weakening, impairing or nullifying the equal recognition, enjoyment or exercise of any of the rights granted under UAE legislation.

The protection against discrimination applies from the very outset, even before a candidate joins a new employer. During the recruitment and selection process, employers cannot discriminate against people with a disability and must make reasonable accommodations for them during job interviews and candidate assessments. When advertising job vacancies, employers must not contain any discriminatory language and must publish the advertisements in multiple forums and mediums to ensure they are widely accessible.

If a person with a disability is successful in the recruitment process and is offered the role, they should not be discriminated against in respect of their salary or benefits and accordingly they should be offered the same salary and employment benefits as a non-disabled person would be offered for the same role with

that employer. This reflects an overarching aim of the Resolution to ensure equality (including in terms of salary and employment benefits) for people with a disability compared to their colleagues without a disability.

## **Making Adjustments to Accommodate a Person's Disability**

Once a person with a disability has joined an organisation, the employer has a continuing obligation to provide a suitable work environment for them and to make any necessary accommodations to ensure they can perform their work efficiently and safely. In considering what constitutes a reasonable workplace accommodation for a person with a disability, various factors are relevant including the size and resources of the employing entity, the nature, and circumstances of the work environment, and the nature and degree of the individual's disability.

In terms of the physical work environment, employers are required to adapt and update workplace equipment and devices as required, and to ensure that the premises where the individual works are appropriate including entrances, internal areas and exits from the building (including in emergency situations). For example, an individual in a wheelchair is likely to require ramp access (instead of stairs) and some doorways, corridors or other spaces within the workplace may need to be widened to accommodate a wheelchair. The employer should also provide facilities and assistance to enable people with a disability to attend and participate in conferences, meetings, events, and training on an equal basis with their peers. This reflects an underlying aim of the Resolution to ensure equality of opportunities for people with a disability compared to their colleagues.

An employer's responsibility is not limited to adjusting the physical workspace to accommodate a person's disability. Employers must also give due consideration to a person's disability when considering their working hours and what flexibility may be appropriate in this regard, particularly if their disability makes it difficult for them to follow the employer's normal working days and times.

Further, employers must factor in the person's disability when discussing and setting their performance targets and subsequently assessing their performance, including any impact this may have on their eligibility for a promotion, bonus payment or salary increment. Performance assessments should be used as a way to identify and address any difficulties being faced by the person in performing their job to the best of their abilities. Appropriate training, rehabilitation and development programmes should be implemented to help people with a disability to reach their full potential in the workplace.

## **Termination of Employment**

The Resolution also addresses the termination of employment for people with a disability and specifically states that such individuals are "entitled to maintain their jobs" even if their disability worsens over time, so long as they are able to perform their work. Further, a person with a disability should not have their employment terminated due to their disability, unless a competent medical committee determines they are no longer able to work, or if they reach retirement age. In cases where the individual's health condition/disability requires them to take time off work, the employer should "preserve" their job and assist them to rejoin the workplace when it is appropriate for them to do so.

## **Oversight of the Resolution**

The Ministry of Community Development (the 'Ministry') is responsible for coordinating with other government departments to ensure that the Resolution is effectively implemented in practice. To this end, employers also have an obligation to cooperate with the Ministry to enable the Ministry to create a record of people with a disability and their training qualification, skills, and professional history.

We recommend that employers also keep clear internal records of what adjustments and accommodations it has made to accommodate people with a disability within their organisation, so that this information can be made available to the Ministry or other authorities if required in order to demonstrate compliance with the Resolution.

The Resolution is an important step in ensuring that people with a disability can participate fairly and effectively in the labour market, and all public and private sector employers should comply with the Resolution (and its underlying principles of equity and non-discrimination) at all stages of the employment relationship.

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