

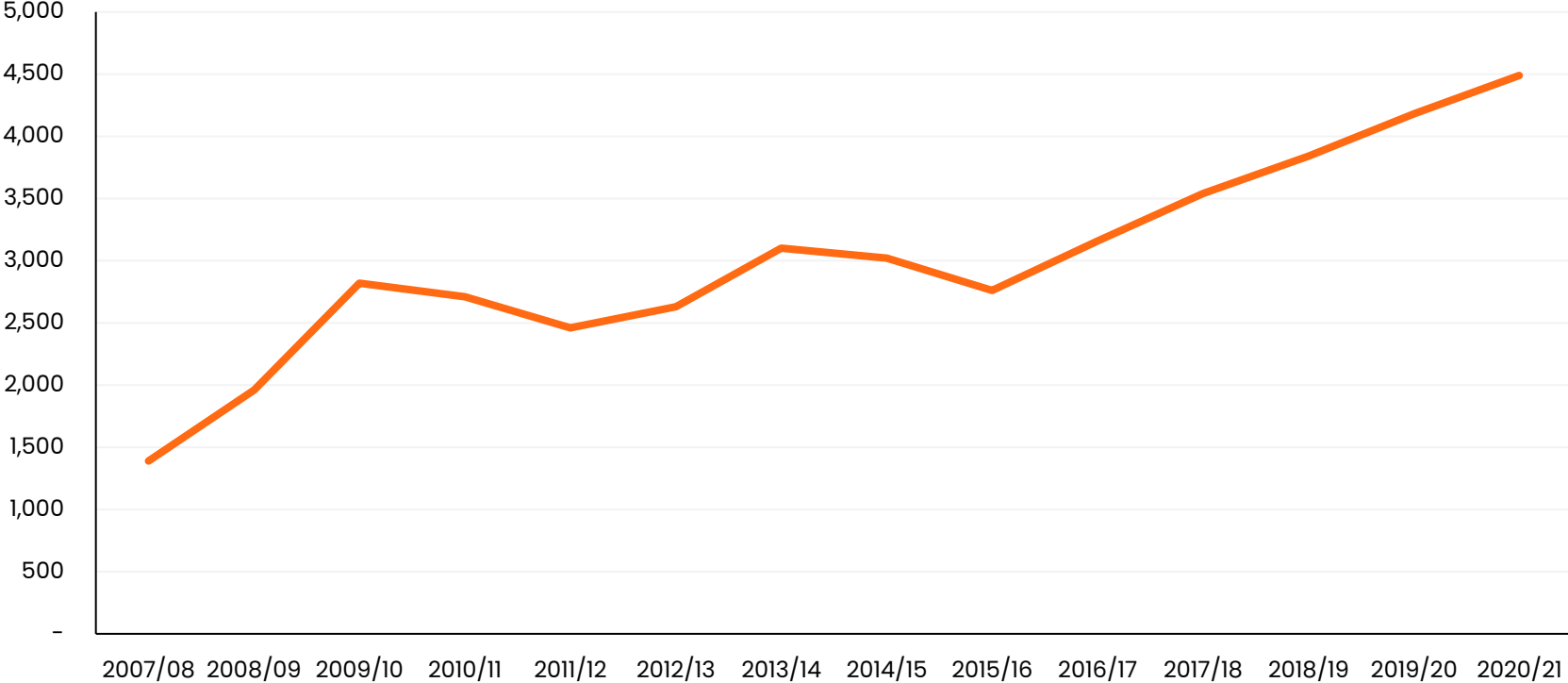


Neurodiversity and Employment Law

About GMB

- We are general trade union that represents almost half a million workers (and has almost 600,000 total members)
- Our members work in a diverse range of industries and occupations across the public and private sectors
- We produced neurodiversity support materials as part of a *Thinking Differently at Work* campaign, in response to member demands.
- Our neurodiversity and reasonable adjustments passports HR model policies now directly cover more than 25,000 workers.

Access to Work Approved provisions for 'Dyslexia'



Neurodiversity – survey results

- Half of leaders and managers say that they would be uncomfortable with hiring a neurodivergent person
- More than half of neurodivergent respondents said their workplace was set up in a way that excludes neurodivergent workers (Institute of Leadership and Management, 2020)
- Seven in ten neurodivergent workers say that they have experienced discrimination during selection processes
- 73% say that they do not disclose their condition because of a fear of discrimination (Westminster Achievability Commission, 2018)

Are neurodivergent conditions disabilities under the EA10?

- The EA provides legal rights and protections for people who have a protected characteristic (disability)
- Few conditions are automatically treated as a disability under the EA10
- But neurodivergent conditions are likely to qualify as a ‘long-term’ condition, the effects of which are more than minor or trivial

Are neurodivergent conditions disabilities under the EA10? (2)

 Office for Disability Issues
HM Government

Equality Act 2010 Guidance

- A5. A disability can arise from a wide range of impairments which can be:
- developmental, such as autistic spectrum disorders (ASD), dyslexia and dyspraxia;

Source

DWP/Office for Disability Issues,
Equality Act 2010: Guidance,
Guidance on matters to be taken
into account in determining
questions relating to the definition of
disability.

Composite image.

Equality Act – lesser known duties

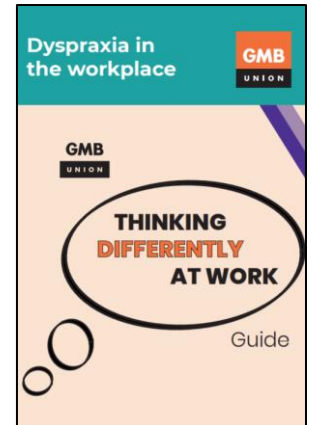
- Under Section 109, an employer is liable for all unlawful acts by its employees (including managers) during the course of employment, unless the employment can show that ‘all reasonable steps’ have been taken to prevent it.
- Under the EHRC statutory Code of Practice, it is not enough for an employer to state that they did not know that worker was disabled: they may be challenged on the grounds that they *should have known* (paragraph 6.19)

Formal diagnosis – an unneeded barrier?

- Best practice is to not require a formal assessment or diagnosis before support is offered.
- Employers should recognise the significant cost and resourcing barriers - 122,000 people are on NHS waiting lists for assessment under the Autism Act, and only 7% receive a first appointment within 13 weeks.
- Women workers are less likely to receive a diagnosis – this doesn't mean prevalence is lower.
- Most adjustments are free or inexpensive and offer high value for money, and options such as Access to Work (which does not necessarily require a formal diagnosis) should be explored.

Thinking Differently At Work

- Guidance and HR policies
- First trade union legal and dyspraxia guides
- All materials produced by neurodivergent workers



Link to resources

<https://www.gmb.org.uk/thinking-differently-work>

Contact

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