

Requesting reasonable workplace accommodation

Part 2

IN OUR last article, we addressed the topic of reasonable accommodation and looked at key concepts within its definition. Today we will delve further into submitting requests for accommodation and how an employer should handle each employee's request.

If you are a person with a disability, either seeking prospective employment or currently employed at an organisation, it is essential to note that you can request reasonable accommodations at any time during the job application process or the course of your employment. The Equal Opportunity Commission (EOC) advises that you should make these requests as soon as you are aware that there may be hindrances at the workplace that may inhibit you from applying for the job, carrying out the roles and functions of the job, or equally accessing benefits such as promotions and training opportunities associated with your employment.

Research has shown that in the workplace some employees tend to conceal their disabilities for many reasons, including but not limited to fear, stigma and discrimination that are inextricably linked to their specific disability. In some instances, an employee's performance at work may suffer due to their disability and an uninformed employer may resort

to taking disciplinary actions against that employee.

It is important to note that the onus is on the employee to apprise the employer of their accommodation needs. It is not for the employer to envisage this need. This is consistent with the concept that individuals should refrain from making biased assumptions about a person's disability and what they can and cannot achieve. At the same time, once the employee shares this information, the employer has a duty of trust and confidentiality to not divulge it to others, unless it is necessary to do so. For example, it may be necessary for the employer to consult with specialists and advisers to ascertain what could reasonably be done to accommodate the employee.

Although it has not been fully proclaimed, employers should be guided by the provisions of the Data Protection Act Chap 22:04 [Act No 13 of 2011]. They should note that information concerning an employee's physical and mental health or condition is deemed "sensitive personal information" [section 2]; it must be kept private and per-

sonal [section 4], and can only be processed by healthcare professionals, or for specific purposes such as research and statistics [sections 40 and 76].

The EOC recommends that any request for accommodation should be written and submitted to a supervisor or Human Resources, despite it not being a requirement. This letter should include the following information:

The employee's name and the position held – This helps in larger organisations or corporations where managers, CEOs, directors, or chairpersons may not be acquainted with the person making the request.

The date on which the request is being made – For the purpose of evidence, in the event that a dispute arises between the employee and the organisation.

Information relating to your disability – State the exact name of the disability or diagnosis and give a brief description. A copy of a medical certificate or note identifying your limitations from your physician may enhance the chance of your request being granted.

A brief explanation of how your disability affects your performance at work – A critical concern of any employer is completion of the job, and doing it efficiently and effectively. As such, you should highlight any barriers you encounter in the workplace that may impede your productivity.

A specific statement that you are "requesting reasonable accommodation" – This is what the employee is actively seeking and it should be explicit in the letter. It is also essential for clarification purposes as employers may claim that a request for reasonable accommodation was not made.

Provide examples of the accommodations you are seeking – This will assist the employer in making decisions, as they are not the ones experiencing the effects of the disability on a daily basis.

The EOC strongly suggests that the employee documents everything. Once the request has been made, the employee should follow up on the status of the application. If this was done verbally, the employee should summarily iterate what was discussed in a follow-up e-mail. Since this is the initial step in accessing reasonable accommodation, the employee is encouraged to maintain active discourse with the employer to ensure their needs are met without placing any undue financial hardship upon the employer.

