APPENDIX A

DISCUSSION OF DISABILITY LEGISLATION

DISABILITY LEGISLATION

1.   INTRODUCTION

People with disabilities are often excluded from the mainstream of society and denied full participation, especially in employment, through some form of discrimination. This discrimination can either be invidious, such as the denial of employment opportunities because of a disability, or subtler discrimination in the form of segregation or isolation resulting from the imposition of physical or social barriers. An obvious means to remedy such discrimination is through the enactment of anti-discrimination legislation yet disturbingly, with 600 million people with disabilities worldwide, only 40 of the 189 members states of the United Nations have enacted some form of anti-discrimination legislation for people with disabilities (Degener & Quinn, 2002:7). Disability legislation is a relatively new concept in South Africa as well as the International arena with over 40 countries enacting some form of disability legislation in the 1990s.

According to Degener & Quinn (2002:1) disability as an aspect of law in North America and European countries has commonly been addressed as an aspect of social security and welfare legislation, health law or guardianship, with legislation viewing people with disabilities as objects of welfare, health and charity programmes. A similar situation has existed in South Africa where, until recently, no legislation dealing specifically with people with disabilities was in place.

In recent years there has been a shift in the focus of international disability legislation. Previously legislation addressed disability as a medical impairment, however more recent approaches to developing disability legislation have focussed on disability as a social issue (Degener & Quinn, 2002:2). This is congruent with the shift in paradigm from the medical model to the social model of disability highlighted in Chapter 1. This shift in paradigm has resulted in the concept of disability being reclassified as a human rights

issue under international law, which has paved the way for civil rights legislation such as the Americans with Disabilities Act (United States, 1990) and the Disability Discrimination Act (United Kingdom, 1995).

Degener & Quinn (2002:2) state that while almost all disability legislation seeks to promote equality, there exist different interpretations of the principle of equality. Degener & Quinn go on to identify three main ways of understanding equality. Firstly, juridical equality prohibits direct discrimination and aims at shifting the focus away from characteristics such as race, gender, disability or sexual orientation. This approach requires society to ignore physical differences, thereby moving away from the medical model of disability and emphasising that disability is not the source of the problem. The second approach, equality of results, examines disability through an outcome analysis. According to the equality of results approach an employee with a disability who receives equal pay, but bears an unequal cost of living burden, is discriminated against.   Underpinning this approach is the human rights theory that all human beings have equal value and dignity. The main criticism of this approach lies in the prerequisite of a strong welfare state, which at times can interfere with the functioning of a free market system. A third and less rigid approach to understanding equality is the equal opportunity approach, which seeks to provide equal opportunities while not ensuring equal results. The equal opportunity approach recognises both stereotypes and structural barriers as barriers to inclusion, and thereby seeks to find a balance between the medical and social models of disability.

According to Degener & Quinn (2002:3) the equal opportunity approach to understanding equality is the most frequently applied concept in modern disability legislation. South African discrimination and disability legislation is also based on the equal opportunity approach.

The present South African government, since its inception in 1994, has worked assiduously to remove and remedy all forms of discrimination. The focus of the government's attention has primarily been the removal of race and gender discrimination, with the effect that the elimination of discrimination

on the grounds of disability has had to take the back seat. This has put back the development, promulgation and implementation of legislation pertaining specifically to people with disabilities, with the earliest specific disability legislation only being promulgated in late 1997. Legislation encompassing or pertaining specifically to the concept of disability in South Africa includes the Constitution of the Republic of South Africa, 1996; the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000; the Employment Equity Act, 1998; and the Code of Good Practice on Aspects of Disability in the Workplace, 2002.

The discussion in this appendix seeks to provide insight into the legislation enacted by the present government that deals specifically with the prevention of discrimination in terms of disability and also specific legislation that aims to promote the employment of people with disabilities. True insight into the composition and efficacy of any legislation can only be obtained if the said legislation is compared with other existing or more reputable legislation. For this purpose legislation promulgated by the United States and United Kingdom which are used as a benchmark by which to compare the legislation enacted by the South African government.

2.   PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION ACT, No 4 OF 2000 (UDA)

Although significant progress has been made in restructuring and transforming South African society and its institutions, systemic inequalities and unfair discrimination remain deeply embedded in social structures. The basis for progressively redressing these conditions lies in the Constitution of the Republic of South Africa 1996, (Republic of South Africa, 1996) which, amongst others, upholds the values of human dignity, equality, freedom and social justice in a united, non-racial and non-sexist society where all may flourish. Based on this the government of South Africa were compelled to promulgate the Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000. Previously know as the Unfair Discrimination Act, the Act

creates a foundation for legislation such as the EEA and the Code of Good Practice.

2.1   Purpose Of The Act

The Act has three main objectives, and although there are many sub-objectives their inclusion in the study is not seen as vital.

- The prohibition and prevention of unfair discrimination and harassment
- The promotion of equality and;
- The prohibition and prevention of hate speech

In terms of the Act, discrimination means any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly:

- Imposes burdens, obligations or disadvantage on; or
- Withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds.

In terms of the Act, equality includes the full and equal enjoyment of rights and freedoms as contemplated in the Constitution.

Based on the definitions provided for discrimination and equality it already becomes clear that the Act clearly has an influence on the relationship between the organisation and an individual with a disability.

2.2   Focus On Disability

The UDA is not designed specifically towards the prevention of unfair discrimination towards people with disabilities, as was indicated in the definitions above. However unfair discrimination towards people with disabilities is prohibited along with race, gender, sex, pregnancy, marital

status, ethnic or social origin, skin colour, sexual orientation, age, religion, conscience, belief, culture, and language.

Further the UDA in terms of section 6 of the Act prohibits unfair discrimination on ground of disability. Subject to section 6, no person may unfairly discriminate against any person on the ground of disability, including:

- Denying or removing from any person who has a disability, any supporting or enabling facility necessary for their functioning in society;
- Contravening the code of practice or regulations of the South African Bureau of Standards that govern environmental accessibility;
- Failing to eliminate obstacles that unfairly limit or restrict persons with disabilities from enjoying equal opportunities or failing to take steps to reasonably accommodate the needs of such persons.

In terms of the Act a person includes a juristic person, a non-juristic entity, a group or a category of persons. Therefore the term person includes an organisation or business. Based on this definition, the impact of the UDA on the relationship between an organisation and a person with a disability again becomes apparent, with the Act specifically stating that no organisation may unfairly discriminate against a person with a disability.

3.   THE EMPLOYMENT EQUITY ACT, NO 55 OF 1998 (EEA)

The relevancy of the Employment Equity Act (Republic of South Africa, 1998) to this study is that not only does the Act address race and gender discrimination it is also geared at preventing disability discrimination in recruitment. Although the Act may not cover disability discrimination as conclusively as the Americans with Disabilities Act (ADA) or the Disability Discrimination Act (DDA), it is the key piece of South African legislation, which assists the disabled in terms of employment.

3.1   Purpose of the act

The Act has as its main purpose the promotion of the constitutional right of equality and the exercise of true democracy in South African organisations. This can be achieved through the attainment of certain secondary objectives, which include the following:

- The promotion of equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and

- The implementation of affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workforce (Republic of South Africa, 1998:8).

The EEA aims not to impose quotas but to ensure that designated employers should attain the demographic proportionality of the populations, within the workforce. This would imply the following proportions, people of colour 90 per cent, women 50 per cent and people with disabilities approximately five per cent.

The EEA aims to reverse past discrimination. The majority of the said discrimination was along racial lines, and not necessarily because of disability, however the act explicitly addresses the case of people with disabilities. The next section will highlight the extent to which people with disabilities have been included in the EEA.

3.2   Focus on people with disabilities

The EEA is applicable to all designated groups and designated employers. The definition of a designated employer will be discussed at a later stage and is therefore not included in the current discussion. According to the definitions provided in the EEA a person belonging to a designated group is:

- A black person, i.e. African, Coloured or Indian; and/or

- A female; and/or

- A person with a disability.

Unfortunately the EEA does not further elaborate on who and who is not included in the definition of a person with a disability, as was stated in Chapter 1. The lack of an adequate definition indicates that people with disabilities do not form the main focus of the EEA.   Therefore the assumption is made that the EEA is applicable to all people with disabilities, within the economically active population, who have the relevant qualifications and abilities to perform the inherent job requirements of their chosen occupation or those who have the potential to be trained for a specific position.

3.3   Effectiveness of the EEA

The effectiveness of any legislation is determined in how well the predetermined objectives have been fulfilled. In terms of this study the effectiveness of the EEA is determined by the growth in terms of the number of people with disabilities employed on the open labour market.

Table A1 indicates that the EEA has been successful in terms of reversing past discrimination regarding race and gender.

Comparing the 1992 statistics with the 2000 statistics presented in table A1 it is evident that formidable changes have taken place in terms of workforce composition. These changes are largely due to the measures enforced by means of the EEA and based on the figures in Table A1 it can be assumed that the EEA is progressively reaching its preset targets in terms of race and gender equality. However the main objective of the EEA is the proportionality of the population within the workforce, this therefore includes people with disabilities and it must thus be determined whether or not the EEA has been

effective in addressing the equitable representation of people with disabilities in the open labour market.

Table A.1   Pre- and Post EEA workforce composition

		African	Coloured	Indian	White	Male	Female
1992	Management	2.1%	1.7%	1.7%	94.5%	94.9%	5.1%
1998	Management	6%	4%	4%	86%	84%	16%
	Skilled	16%	8%	5%	71%	75%	25%
	Total staff	54%	10%	4%	32%	75%	25%
1999	Management	7%	4%	4%	85%	82%	18%
	Skilled	21%	9%	7%	63%	71%	29%
	Total staff	53%	10%	5%	32%	76%	24%
2000	Management	10%	5%	5%	80%	79%	21%
	Skilled	23%	13%	8%	56%	67%	33%
	Total staff	49%	14%	6%	31%	72%	28%

Source: Breakwater Monitor, 2000:2

The leading monitor of employment equity in South Africa is the Breakwater Monitor run by the Graduate School of Business, at the University of Cape Town (UCT). At the time of this study there were no available statistics available on the representation of people with disabilities in the workforce. The Graduate School of Business (UCT) report that this is largely due to the fact that people with disabilities constitute a relatively small proportion of the workforce, thereby making trends difficult to monitor.

According to research conducted in 1990, approximately 99 percent of people living with disabilities were excluded from employment on the open labour market (Republic of South Africa, 1997:9). This figure was 99.74 percent in 1985. In a recent discussion with a representative from Employment

Solutions, a recruitment agency dealing specifically with the people with disabilities, it was stated that out of 148 candidates they were only able to place two in the open labour market. Silver & Koopman (2000:10) suggest that as much as 88 percent of people with disabilities in South Africa are excluded from all forms of employment.

Further to this, a study conducted among one hundred organisations in South Africa by Global Business Solutions, showed that workforce participation of people with disabilities hovered around 0.93 percent and only 0.35 percent at management level. (Botha, 2002:1)

From this it becomes evident that, in terms of people with disabilities, the EEA has been unsuccessful in ensuring true equality in the South African workforce thus far.

4. CODE OF GOOD PRACTICE ON KEY ASPECTS OF DISABILITY IN THE WORKPLACE

From the above discussion it becomes clear that the EEA does not deal specifically with addressing the needs of people with disabilities and has also not been overly successful in ensuring the placement of people with disabilities on the open labour market. The Commission for Employment Equity therefore took the decision to develop a code of good practice dealing specifically with disability in the workplace. The Code of Good Practice was only promulgated in early 2002, and it is therefore difficult to determine its effectiveness as yet. For the purpose of this study however the contents of the Code of Good Practice are sufficient in providing an insight into the measures that the South African government will implement in the future.

The Code of Good Practice is not an authoritative summary of the law, nor does it create additional rights or obligations. Failure to observe the code does not itself render a person liable in any proceedings, rather the code is there to answer the many calls from the business community for clarity on

how disability in the workplace should be defined and managed (Chawirah, 2001:38).

4.1   Purpose of the code

The Code of Good Practice has two main purposes:

- The Code of Good Practice is a guide for employers and employees on key aspects of promoting equal opportunities and fair treatment for people with disabilities as required by the EEA.

- The Code of Good Practice is intended to help employers and employees understand their rights and obligations promote certainty and reduce disputes to ensure that people with disabilities can enjoy and exercise their rights at work (Republic of South Africa, 2002:2).

Additional to these objectives, is the essential element of providing clarity of definition. As has already been stated in Chapter 1, the failure of the South African government to provide a clear-cut definition of who is and who is not regarded as a person with a disability has resulted in much confusion amongst businesses and employers. The Code of Good Practice fortunately provides a definition of a person with a disability, and also provides clarity on which impairments are not considered disabilities, as well as what constitutes a reasonable accommodation by an employer. The Code of Good Practice is however intentionally general, this is justified in the fact that every person and situation is unique. Departures from the standards set out in the Code of Good Practice are also justified in appropriate circumstances.

4.2   Scope of the code

It must again be emphasised that the Code of Good Practice is a guide for managing a relationship, namely the relationship between the employer and the employee, the code is not a law. Unlike the EEA the Code of Good

Practice does not discriminate between designated employers, the Code of Good Practice therefore is relevant to all employers be they small, medium or large organisations. The Code of Good Practice also differs from the EEA in its scope. Where the EEA is specific to promoting equality in terms of employment i.e. recruitment, selection and placement, the Code of Good Practice is aimed at addressing all aspects involved in the management of people with disabilities. The Code of Good Practice provides specific guidelines to management of the following human resource management aspects:

- Recruitment and selection
- Medical and psychometric testing
- Placement
- Training and career advancement
- Retaining people with disabilities
- Termination of employment
- Confidentiality and disclosure of disability
- Employee benefits
- Employment equity planning in respect of people with disabilities

For the purposes of this study it is sufficient to recognise that the Code of Good Practice is divided into the various subsections, and it is not necessary to investigate the guidelines pertaining to each aspect.

One area of the Code of Good Practice that is, however, of particular interest is that of reasonable accommodation. The Code of Good Practice provides a certain amount of clarity on what constitutes a reasonable accommodation, and also states certain scenarios wherein an employer would be justified in not accommodating a person with a disability. In terms of the Code of Good Practice (Republic of South Africa, 2002:4) a reasonable accommodation is one which:

"Reduces the impact of an impairment of the person's capacity to fulfill the essential functions of a job, and which does not impose an unjustifiable hardship on the business of the employer."

In terms of the Code of Good Practice (Republic of South Africa, 2002:2):

"An unjustifiable hardship is action that requires significant or considerable difficulty or expense and that would substantially harm the viability of the enterprise."

The Code of Good Practice also provides numerous examples of what could be considered a reasonable accommodation, and in so doing eliminates some of the confusion created in other employment legislation.

4.3   Effectiveness of the Code of Good Practice

At the time of this study the Code of Good Practice had only recently been promulgated and the effectiveness thereof could therefore not yet be determined.

5.   INTEGRATED NATIONAL DISABILITY STRATEGY (INDS)

The Integrated National Disability Strategy (INDS) stems from the South African government's recognition of the fact that people with disabilities, especially in underprivileged communities, have been and still are unfairly discriminated against (Republic of South Africa, 1997:2).

5.1   Purpose of the Integrated National Disability Strategy

The vision of the INDS is a society for all. This means that there must be an integration of disability issues in all government development strategies, planning and programmes. There must be an integrated and co-ordinated management system for planning, implementation and monitoring at all

spheres of government. To complement the process, there must be capacity building and wide public education (Republic of South Africa, 1997:2).

The INDS identifies and discusses priority areas to be targeted in a disability programme. The identified targets are environmental accessibility, education and training, employment, income maintenance and social security, housing and especially sensitive groups among the disabled.

It must be emphasised that the INDS is not a set of rules by which organisations should abide, instead it is the groundwork for creating an understanding of the nature and implications of disability in all aspects of society and it is not specific to the employment situation.

5.2   Effectiveness of the Integrated National Disability Strategy

The purpose of the INDS is to ensure the integration of disability issues in all government development strategies, planning and programmes, therefore the effectiveness thereof can only be determined by the extent to which this objective has been achieved.

From the discussion of the previous three documents it becomes clear that, to an extent, the issues concerning people with disabilities have been included in South African legislation. The development of the Code of Good Practice on Aspects of Disability in the Workplace is another indication that the INDS has been successful in creating an awareness of the needs of people with disabilities specific to the employment situation.

6   INTERNATIONAL LEGISLATION

At the forefront of legislation pertaining to the employment of people with disabilities is the Americans with Disabilities Act (ADA), which for sometime now has been considered a benchmark for comparing such legislation. For this reason the ADA is discussed in some detail below.

6.1   United States: The Americans with Disabilities Act of 1990

The Americans with Disabilities Act of 1990, (hereafter ADA) enacted in 1990 and implemented in 1992, is America's first disability specific anti-discrimination legislation and covers approximately 43 million Americans. It is also one of the most significant employment laws in American history. Enacted for just over ten years, the ADA is only beginning to fulfil its objectives of independence, empowerment and integration (Miller, 2000:1). The ADA has not only affected Americans with disabilities but has had implications for governments and people with disabilities worldwide. According to Degener & Quinn (2002:8) the ADA has had such an enormous effect on international legal development that it seemingly has had a greater international than domestic impact. This is however not the purpose of the ADA.

The ADA is an act to establish a clear and comprehensive prohibition of discrimination on the basis of disability (United States 1990:1). The purpose of the ADA as held in the Act is as follows:

- The provision of a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

- The provision of clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

- To ensure that the federal government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

- To invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

While Title 1 of the ADA is an employment-specific law other Titles of the Act prohibit discrimination in services rendered by the state and local government, public accommodation, transportation and telecommunication services. As the focus of this study is on the employment of people with disabilities, reference will only be made to Title 1 of the ADA, which relates specifically to the employment of people with disabilities.

The purpose of the Title 1 of the ADA is the prohibition of discrimination against qualified individuals with a disability pertaining to job application procedures, hiring, training, compensation, fringe benefits, advancement and any other term or condition of employment. Title 1 of the ADA applies to private employers with 15 or more employees, all city and state governments, employment agencies, labour organisations and joint labour-management committees. Discrimination on the part of the employer in terms of the ADA is viewed as the following:

- Limiting, segregating, or classifying a job applicant or employee based upon a disability that in any way adversely affects the employment opportunities or status of the individual;
- Entering into contracts or other arrangements with third parties that have the effect of subjecting an employer's workers to discrimination based on disability;
- The utilisation of any standards, criteria, or administrative methods that have the effect of discriminating based upon disability;
- Excluding or otherwise discriminating against a job applicant or employee because of that person's association with a person with a disability;
- Not making reasonable accommodations for the known disabilities of a job applicant or employee (United States, 1990:8).

Apart from prohibiting discrimination, the ADA requires employers to provide reasonable accommodations to the known physical and mental limitations of an otherwise qualified person with a disability (United States, 1990:4). Herein

lies the main remedial action of the ADA. Unlike other employment and anti-discrimination legislation the ADA does not require affirmative action plans, preferential treatment of job applicants, record keeping or governmental reporting (Frierson, 1992:5). Once reasonable accommodations are in place the Act provides that an employee with a disability should be treated as any other employee would. Reasonable accommodation is not specifically defined in the act, most likely due to the fact that the type of accommodation will be dependent on the type of disability, however a list of potential accommodations is provided.

Another area specifically outlined in the ADA is that of pre-employment disability inquiries and examinations. According to the Act employers may not request job applicants to voluntarily disclose the existence, nature or severity of a disability. Employers are also prohibited from conducting pre-employment medical or physical examinations (United States, 1990:8; Frierson, 1992:10). Employers are however entitled to make enquires into the individuals ability to perform job-related tasks. While these provisions might seem contradictory in nature, Frierson (1992:10) emphasises the distinction between them with the following examples. An employer may not ask a job applicant questions such as "Do you have a disability?" or "Are you in good health?", however if the applicant is applying for a position that involves lifting 50kg sacks of maize, the employer could ask a question such as "Will you be able to lift 50kg sacks of maize?". The employer in this case would also be permitted to apply testing procedures to see if the applicant can in fact lift the sacks. The Act also stipulates that once a tentative offer of employment is made, the employer may ask health questions and require a medical examination, provided that all information resulting from the testing is kept confidential. This raises another key issue addressed by the Act, namely that of confidentiality. The Act states that any information obtained regarding the medical condition or history of an applicant should be collected and maintained on separate forms and in separate medical files and be treated as confidential. Access to this information is limited to managers or supervisors who need to be informed of work-related restrictions, first aid personnel, and government officials investigating compliance with the Act (United States, 1990:8).

A final point to be addressed under the discussion of the ADA is that of the enforcement of the Act. According to Frierson (1992:15) employees can lay charges with the EEOC if they feel that they have been unfairly discriminated against in terms of section 102 of the Act. Individuals as well as the EEOC can also bring lawsuits to court to enforce the Act. Pending investigations and hearings the courts may issue injunctions requiring building modifications, the adoption of auxiliary aids or new company policies and in more sever cases the courts may award monetary damages and a civil penalty of $55,000 for a first violation and $100,000 for subsequent violations (Frierson, 1992:15).

In addition to the above-mentioned forced compliance with the Act, tax incentives from the Internal Revenue Services (IRS) are available to employers who comply with the ADA. According to Aloise (2001:25) organisations that comply with the ADA can receive a tax rebate of up to $15,000 on accommodations implemented in compliance with the Act. Employers hiring people with disabilities are also entitled to tax rebates on salaries and wages paid to these individuals, which is a further incentive in terms of compliance with the Act (Cook, Judice & Lofton, 1996:40).

The ADA is similar in nature to both the EEA and the Code of Good Practice, in that it is an informative document providing information and definitions regarding disabilities, reasonable accommodation and employment procedures just as the code does. However, it is similar to the EEA in that it compels employers to consider people with disabilities in their employment practices, while at the same time prohibits the unfair discrimination of qualified individuals with a disability. It also compels employers to make reasonable accommodations for people with disabilities, provided they do not imply undue hardship on the employer.

A closer look at the code will suggest that it is modelled on the ADA as it follows a very similar structure and content. This is in itself a positive step if one looks at the success of the ADA.

According to Baldwin and Johnson (2000) the ADA has substantially increased the employment and income of people with disabilities as well as reduced their dependence on public programmes.

6.2   The Disability Discrimination Act (DDA)

Similarly to the United States (US), the United Kingdom (UK) enacted its own disability legislation in 1995. As was indicated in the previous chapter the employment opportunities for people with disabilities living in the UK are greatly reduced compared to able-bodied individuals. It is because this that the UK government enacted the Disability Discrimination Act (DDA).

The DDA is applicable to employers of 20 or more employees, and defines a person with a disability similarly to the EEA and ADA. The DDA is generally in line with the ADA in terms of meaning of disability, employment practices covered, reasonable accommodations and the stand taken on confidentiality and disclosure of disability.

One interesting difference between the EEA and the ADA and DDA is that of support offered to employers. In the US financial assistance is available to employers who hire people with disabilities (Thomas & Hlahla, 2002:20). This comes in the form of tax credit, where tax credits of up to 50 percent of the cost of reasonable accommodations can be recouped. Under the DDA employers are entitled to technical and financial assistance under the Access to Work Scheme run by the employment service (Thomas & Hlahla, 2002:21). It is not uncommon for this scheme to meet up to 80 percent of the cost of providing reasonable accommodations in the workplace.

7.   CONCLUSION

The legislation discussed in this appendix are not the only documents governing the equitable employment of people with disabilities in the workforce of South Africa, however, it is the opinion of the researcher that the

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documents discussed in this appendix are those which impact the greatest on the employment of people with disabilities.

The fact that legislation dealing specifically with the needs of people with disabilities has been promulgated is an indication of commitment from the South African government and is a positive sign. The fact remains however that much of the said legislation and recommendations have not yet been implemented, and the effectiveness thereof not yet measured. However, with documents such as the Code of Good Practice, clarity on many issues surrounding disability and employment has been provided. The effectiveness of the EEA in addressing race inequalities has been shown to be very effective, yet in terms of people with disabilities relatively ineffective, indicating that amendments are required. Fortunately it would appear as though the Code of Good Practice provides many of the said amendments.

To conclude it can be stated that legislation in South Africa is not yet on par with documents of the likes of the ADA and DDA, however a start has been made and a solid foundation for future improvements has been set.

APPENDIX B

RESEARCH QUESTIONNAIRE

University of Pretoria

Mr Russell Wordsworth
Tel (012) 429-4073
Fax (012) 429-4573

To Whom It May Concern:

HIRING PEOPLE FOR THEIR ABILITIES AND NOT THEIR DISABILITIES

You are invited to take part in the above research project, which forms part of my Masters Thesis at the University of Pretoria. The purpose of the study is summarised below.

Studies have shown that people with disabilities are successful in retaining their employment and often have a lower turnover rate than able-bodied people; however the difficulty often lies in securing employment in the first place. Employers, such as yourself, are often blamed for the high unemployment rate of people with disabilities. More often than not, however, organisations are willing to employ people with disabilities and make active efforts to do so. Due to certain difficulties (barriers) employer's efforts are often hampered with the end result being that the unemployment of people with disabilities in South Africa is increasing.

The main outcome of the study is to identify the barriers which employers face in their attempts to secure the services of people with disabilities. The study is therefore focused on the perspective of the employer and not the prospective employee with a disability.

This questionnaire is merely phase one of a two-phased data collection process, the second phase being a structured interview, based on section C of the questionnaire. Although the interview will follow the structure of the questionnaire, the questionnaire seeks to obtain quantitative data, whereas your opinions and ideas will be more important in the interview. You will not be required to return the questionnaire to me, as it will be collected during the interview.

The information that you provide in the questionnaire and the interview will be kept strictly confidential. Only the researcher will see the completed questionnaire. No one from the University of Pretoria will have access to the information you provide and it will be used strictly for research purposes. Strict anonymity will be preserved in any ensuing publications.

I hope that you will be interested in taking part in this important research project, which aims to ensure that more people with disabilities find their way into the open labour market.

Thank you for your valuable contribution towards this important research. It is greatly appreciated.

Best wishes

Russell Wordsworth
(Researcher)

QUESTIONNAIRE: PEOPLE WITH DISABILITIES IN THE WORKPLACE

This questionnaire consists of the following three sections:

Biographical information of respondent and organisation

People with disabilities in your organisation

Barriers faced when employing people with disabilities

The questionnaire will take approximately 15 minutes to complete, and will ensure that you are properly prepared for the interview as the interview will follow a similar structure to that of the questionnaire.

Section A: Biographical information

For this section please answer each question by making a cross in the square you have chosen, e.g. ☒ or by writing a number in the square(s) provided.

QUESTIONNAIRE

1. Please state the nature of your current position within your organisation.

A permanent position within the organisation	
An external consultant to the organisation	
Other (Specify):	

2. Please indicate your current job level in the human resource department.

HR Director	
Senior HR manager	
Junior HR manager	
HR practitioner	
Other (Specify):	

3. Please indicate your number of years experience in the human resource management field.

4. Please indicate your number of years experience in your current human resource management position.

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5. Does your organisation form part of the business and financial services sector of the economy?

Yes	
No	

6. Is the head office of your organisation in Gauteng?

Yes	
No	

7. Please indicate the number of employees within your organisation.

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8. How many of the following "able-bodied" designated employees are currently employed by your company. Please indicate the number of employees next to the relevant classification.

Black persons	
Indian persons	
White females	
Coloured persons	

Section B: People with disabilities in your organisation.

9. Does your organisation currently employ any people with disabilities? If your answer is **no**, please skip this section and proceed to section C.

Yes	
No	

10. If you answered **yes** to the above question please indicate the number of employees with disabilities currently employed in your organisation.

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11. Please indicate the nature of disability by indicating the **number of people** next to the classification of disability.

Classification	No. of people
Visually impaired	
Hearing impaired	
Physically impaired	
Mentally impaired	
Multiple impairments	

12. What roles do these employees fulfil within the organisation? This can be done by indicating the **number of people** next to the relevant role.

Administrative and clerical staff	
Service and sales staff	
Professionals and technicians	
Managers	
Other	

13. Please indicate at what stages external consultants/specialists were used in the employment of people with disabilities within your organisation.

	Never	Sometimes	Always
Recruitment			
Selection			
Placement			
Training			

14. Are you aware of any organisations in South Africa that assist companies with the facilitated placement of people with disabilities in open labour market employment?

Yes	
No	

15. If you answered YES to question 35, please indicate the names of these organisations.

_____
_____
_____
_____

16. Please indicate if any of the following job accommodation methods were used by your organisation. You may tick more than one option.

Job restructuring	
Assistive devices	
Training and re-training	
Personal assistant	
Building modifications	
Job reassignment	

17. Please indicate the turnover rate of people with disabilities in your organisation?

Very low	
Low	
Average	
High	
Very high	

18. Please indicate whether the turnover rate of people with disabilities is higher or lower than that of people without disabilities.

Much lower	
Lower	
The same	
Higher	
Much higher	

19. What in your opinion are the reasons for the turnover rate identified above?

_____
_____
_____
_____
_____

20. Section C: Barriers faced when employing people with disabilities in your organisation. What barriers did you experience during the employment of people with disabilities?

_____
_____
_____
_____
_____
_____
_____
_____

21. What measures were taken within your organisation to eliminate the barriers mentioned above?

_____
_____
_____
_____
_____
_____
_____

22. In your opinion, were the measures taken to eliminate the above-mentioned barriers successful?

_____
_____
_____
_____
_____
_____
_____

23. Please indicate which, in your opinion, of the following two classifications of barriers are/were the most difficult to overcome in your organisation.

Physical environmental barriers, such as inaccessible buildings	
Social based barriers, such as stigmatism and stereotyping	

24. What are the reasons for your answer to question 25?

_____
_____
_____
_____
_____

25. In your opinion did/does the elimination of barriers to the employment of people with disabilities result in any extraordinary expenditure, and if so how is this linked to the degree of disability of the person employed?

_____
_____
_____
_____
_____

26. To what extent does current legislation aid you in the employment of people with disabilities?

_____
_____
_____
_____
_____
_____

27. What is the main reason why your organisation would hire someone with a disability?

_____
_____
_____
_____

28. What is the main reason why your organisation would not hire someone with a disability?

_____
_____
_____
_____

29. How could the placement of people with disabilities in open labour market organisations be improved?

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_____

THANK YOU FOR YOUR PARTICIPATION

APPENDIX C

SUMMARY OF TRANSCRIPTS

RESPONDENT A

Barriers experienced

The majority of barriers experienced by us were of a social nature. In the case of the individual with psoriasis (a skin disorder which causes an individuals skin to flake off in large quantities) able-bodied staff did not want to work in the same office as the individual for fear of contracting the disability, as they were ignorant to the nature of the disability. "If I may say so myself, I have difficulty being in the same room as the individual with the disability, as the disability makes the individual look like something from a horror movie" This eventually resulted in us offering the individual his own personal office (which the individual agreed to without hesitation), however, this does cause a certain degree of ostracism as the rest of employees work in an open plan environment. It was almost the same as having a leper colony. The other individual with a disability is an amputee, who is missing one leg, and the attitudes towards him are much better than towards the individual with psoriasis, I think this is largely due to the fact the nature of his disability is simple to comprehend and able-bodied staff do not fear being in contact with him. In the same breath, there were other more physical barriers in terms of the individual with the disability. Apart from the obvious mobility problems we have a greater problem in that we only have toilets for people with disabilities on our ground floor (reception area) and therefore every time the individual needs to go to the bathroom he has to go down the elevator to the ground floor, very often this involves another staff member having to take time to assist him. We have considered moving the individual to the ground floor, however this is merely our reception and lobby floor and this would result in a certain degree of ostracism and in my opinion be a very negative move. Clearly something needs to be done about the disability-friendly status of our buildings.

Removal of barriers

The first step we took was in light of eliminating the ignorance surrounding the various disabilities. This was done by bringing in specialist trainers to conduct what we call "sensitivity training" in which individuals were educated regarding the types of disabilities (not just psoriasis and amputees but all broad categories of disability) Specialists were also brought in to conduct workplace assessments and make the necessary adjustments to the working environments of the individuals, this included wheelchair ramps and other building modifications. While this might sound like a small measure it is one of the most successful → where offices are usually only vacuumed every second day, special arrangements were made for the individual with psoriasis's office and immediate areas around him to be vacuumed three times a day to remove all of the flakes of skin, this has helped reduce the uneasy feeling one gets when in the office.

Success of measures

The sensitivity training has been very successful in creating awareness amongst and educating staff members who are in direct contact with our two people with disabilities and as a proactive measure we are considering extending this training to everyone in the organisation. In terms of the removal of physical barriers I would have to say that our efforts have been somewhat successful but we still have to go a long way in terms of getting our buildings disability friendly. The move to a separate office for the individual with psoriasis although not ideal, has been successful, as too have the special cleaning arrangements.

Physical versus social barriers

Social barriers are by far the most difficult to overcome. I think the reason for this lies in the fact that you have to change the perceptions and attitudes of people and this takes a lot of training and education, which is very time consuming and expensive.

Extraordinary expenditure

Yes they did and there is most definitely a direct relationship between the cost of accommodating a person with a disability and the severity or nature of the disability. Our main expenses came from the employment of specialists to facilitate the recruitment and placement of the individuals within our organisation. While the initial costs are not that much different from recruitment costs for able-bodied individuals, the placement cost and workplace assessments are quite costly. The removal of physical barriers has not yet cost us too much, however if we are to make our buildings totally disability friendly the expense will be large.

Legislation

We are a very compliant company; therefore we use the EEA as a guide and comply with the stipulations in the Act. However, thus far I would say that this is the only way in which the Act assists me.

Main reason for hiring an employee with a disability

I will have to be totally honest with you and say for company image. We are one of the top companies to work for in South Africa and would like to keep it that way. Secondly as I mentioned earlier we are a very compliant company so the second reason would have to be in compliance with the EEA.

Main reason for not hiring an employee with a disability

If the individual is not able to do the job that we want to hire him for, or more importantly if the individual is unable to learn the job.

How can we improve the employment of people with disabilities?

I would say that the biggest barrier facing people with disabilities is a lack of adequate working experience. To rectify this I would suggest that we embark

on apprenticeship or internship programmes designed especially for people with disabilities, in which individuals learn various life skills and interviewing skills. On top of all of this we need more institutions like Access College, which provide education and training to people with disabilities.

RESPONDENT B

Barriers experienced

One of the most commonly experienced barriers is that of accessibility of our buildings to people with disabilities. We are a very large organisation and while our head office is well on its way to becoming accessible much of our regional offices and training centres are not accessible at all to the disabled. Some of our buildings are very old and were built a long time before the interests of the disabled were considered important.

Another barrier related to this is line manager resistance to the implementation of assistive devices and reasonable accommodations. The reason for this is that line managers are responsible for their own budgets and very often these accommodations cut into their budgets. They are therefore reluctant to take on the financial and time burdens of accommodating people with disabilities.

Stigmatisation is also a huge barrier that we need to overcome. There is a mindset that people with disabilities belong in call centres, and while we do employ many people in our call centres this is not the only place in the organisation where they can be employed.

We also find that people with disabilities try and hide their disability and are afraid to disclose it to HR. I think they fear the social problems that may arise and also that they might be laid off because of the disability. Some of the less severe mental disabilities such as epilepsy can be masked to such an extent by medication that the individual appears totally functional.

Removal of barriers

The first thing that was implemented that covers all types of barriers was to create and implement a disability management policy for all line managers. This policy was sent to 300 line managers and covered all aspects of

managing disability. The policy was designed based on the code of good conduct (see chapter 4) and has similar content to the code. Additional to this we created a special fund from which line managers could draw to make necessary accommodations and adjustments. This fund is also intended to finance the accessibility improvements of our buildings. Following this clauses were included in the performance contracts of line managers whereby if they did not accommodate people with disabilities in the manner that they should they could stand to loose a portion of their bonuses.

A company wide disability awareness week was held in which people with disabilities were encouraged to disclose their disabilities to HR. Seven computer flash message (one per day) were sent to every employee in the organisation with a computer educating them about aspects of disability.

We also brought in experienced specialists from the United States to do workplace assessments and also to design specialised software packages to cater for the visually and hearing impaired. We have also contracted specialist architects to make recommendations regarding our buildings.

Success of measures

The disability awareness week has been our biggest success up to now, with the number of people with disabilities disclosing their disabilities almost doubling in the past year. The publication of a standard disability policy has also been very successful with line manager participation improving. The performance contracts and special fund I mentioned have only recently been implemented and we have not yet determined their effectiveness. The specialist architects and programmers we brought in have proved to be invaluable and we will continue to use them.

Physical versus social barriers

Social barriers are definitely the most difficult to overcome. With access barriers; provided you have the finances and knowledge available they are

relatively easy to remove. However with social barriers you are dealing with the beliefs of people and this always increases the complexity.

Extraordinary expenditure

It definitely costs more to employ someone with a disability. I would say somewhere in the region of 10 per cent more. While I do think that there is a relationship between cost of accommodation and degree of disability I think this could be overcome by placing people in a job that best suits his/her disability.

Legislation

Legislation has assisted us in a variety of ways. Firstly and most commonly in a compliance role, in terms of the EEA. However in my opinion the EEA does not assist guiding the employment of people with disabilities. Therefore I am glad that the code of good conduct was brought about as it has helped us create our own internal policy regarding best practice when employing someone with a disability.

Main reason for hiring an employee with a disability

I would hire someone based on his or her ability to do the job.

Main reason for not hiring an employee with a disability

I think I would be reluctant to hire someone at the present time due to the current poor accessibility of our buildings. I think in some of our current buildings we would actually place the person in a negative position by hiring him/her.

How can we improve the employment of people with disabilities?

In my opinion government needs to improve legislation pertaining to the employment of people with disabilities. While they have made a number of

advancements there is still a long way to go. Also I think government should implement a reward system, such as a tax rebate, for organisations who employ people with disabilities.

RESPONDENT C

Barriers experienced

I must say that at present we are quite fortunate in that we don't experience many barriers in terms of employing people with disabilities, but I think we have come a long way as we battled with the first few. The main barriers we experience currently are of a social nature. There is a lot of prejudice and stereotyping and while I will be honest and admit that it takes place in our organisation, it is far greater when our employees with disabilities visit clients. We have a very mobile workforce and this means our staff visit a number of different clients in a year. Very often if we send an employee in a wheelchair we will get requests not to send him/her again or to at least inform them first. This is due to their ignorance regarding disability management and also their perceptions that they are not able to do the job as well as able-bodied employees. Another barrier is our infrastructure and our client's infrastructure. While our buildings are actually very disability friendly, until recently we had no real need for these facilities. When we employed our first quadriplegic in a wheelchair and he went to the bathroom, he was unable to use it as for many years it had been used as a storeroom. (I am not exaggerating here). This was an indication of our inexperience in dealing with people with disabilities. Similarly we often find that our client's buildings are not very disability friendly.

Removal of barriers

Our major efforts have been directed at sensitising our clients before we send an employee with a disability to them. However, we will continue to send people with disabilities to clients and not hide them behind desks at our offices. We have also implemented an awareness creation campaign internally to try and increase the acceptance of people with disabilities by other staff. We have open-plan work areas and do not tolerate strange or outrageous behaviour. Our employees have a job to do and both able-bodied and disabled employees must get used to working in each other's presence and learn to fit in as we expect people of different races and cultures to do.

We have also implemented a performance management system where by if managers do not realise employment goals in terms of race, gender and disability they must leave ten per cent of their annual bonus on the table and I assure you that in our organisation that is a lot of money. I must however emphasise that currently in our organisation and industry the focus is on race and not on disability, with these pressures be generated by external parties such as government.

I must also mention however that every single senior manager in our organisation is fully committed to the employment of people with disabilities.

Success of measures

I would say that all of the measures that we have implemented have been very successful considering that in the past few years we have managed to attract and more importantly retain a good number of employees with disabilities.

Physical versus social barriers

I would have to say social barriers. The reason being that we have to change the attitudes of three parties namely our able-bodied staff, our staff with disabilities and our clients.

Extraordinary expenditure

At present I would say that expenditure on eliminating barriers is quite minimal, however the company would be willing to incur costs to accommodate employees in terms of training, workplace adjustments or any other reasonable expenditure. There is definitely a direct relationship between the cost of accommodating a person with a disability and the degree of that person's disability.

Legislation

I my opinion legislation does not aid in the employment of people with disabilities. The EEA is designed to compel organisations to hire people of colour and does not focus on disability per se; it merely makes you aware of the fact that they too should be considered. ***Have you heard of the INDS or Code?*** No.

Main reason for hiring an employee with a disability

I would only hire any person who can add value to our organisation. We will not hire a person with a disability just to fill quotas.

Main reason for not hiring an employee with a disability

Tokenism! We are totally opposed to hiring someone to fill quotas or look good in the eye of the public or government!

How can we improve the employment of people with disabilities?

The issue of people with disabilities needs to be raised nationally. I am not sure of where the funding will come from, but in my opinion it is the only way that social barriers will be eliminated. We need something similar to the Love Life campaign regarding AIDS awareness. Legislation must be improved. Current legislation in almost all HR fields is legislation, which compels organisations to take certain actions. Business is bruised by all of the current legislation, which merely compels and does little in terms of guiding organisations. Finally, organisations should warm to the idea of employing people with disabilities and not be afraid of the challenge.

RESPONDENT D

Barriers experienced

The biggest barriers I have experienced are the preconceived notions of able-bodied staff at all levels with regards to the abilities of people with disabilities. I suppose you could call it stigmatisation or simply just ignorance. Able-bodied staff believe that disability implies loss of ability, which in reality is very often not true.

Another major barrier we experience is in the actual recruitment of people with disabilities. I find that very often the people with disabilities applying for positions with the organisation lack the skills and experience acquired from working in a corporate environment. I suppose this stems from the past when people with disabilities were not really actively recruited.

Although to a lesser extent than the previous barriers, another barrier is that of our physical environment. Currently we only employ 5 people with disabilities quite successfully, I do think that as this number grows so to will the number of accommodations and adjustments that we will have to make.

Finally and to a very small extent is the unwillingness of some managers to make accommodations or minor adaptations on occasion.

Removal of barriers

We have held a number of workshops and training sessions to educate the able-bodied staff working in the same sections as people with disabilities. These workshops were interactive where the involvement of the individual with the disability was key to the training. This also helped able-bodied staff overcome preconceived ideas.

We are fortunate that by the nature of our organisation we have a number of occupational therapists and specialists working for the organisation. We used

these resources extensively to assist with workplace assessments and the determination of reasonable accommodations, as well as job restructuring.

Success of measures

The measures we have implemented have been very successful in terms of retaining our existing employees with disabilities and ensuring that they are able to perform adequately. However we need to implement measure to attract additional suitably qualified people with disabilities.

Physical versus social barriers

Social barriers have been the most difficult to overcome, as the elimination of these barriers are time consuming and involve a number of people with a number of different ideas and attitudes. It must be added however that by involving the staff with disabilities in these initiatives has made the job a lot easier.

Extraordinary expenditure

To date I would not say that the elimination of barriers has been extraordinarily expensive, however, I would agree that the more severe the disability the more expensive it would be to accommodate that individual. I think the fact that we have internal occupational therapists also helped reduce the cost of accommodation.

Legislation

Legislation definitely makes employers more aware of the disabled and because of this more opportunities have arisen for these individuals. In my opinion there is still a long way to go before the perceived problems regarding the employment of disabled people are overcome.

Main reason for hiring an employee with a disability

We hire people for the skills and abilities that they bring to our organisation, no other reason!

Main reason for not hiring an employee with a disability

If the individual is unable to meet the requirements and demands of the job for which they are applying.

How can we improve the employment of people with disabilities?

I think a national strategy must be implemented that has two objectives. Firstly to create an awareness of people with disabilities, with a special focus on their abilities, i.e. what they are capable of doing. This strategy should focus of ability rather than barriers that need to be overcome. Secondly the strategy should aim to increase the skills base of people with disabilities, through the provision of specialised training. I am not sure how one would go about this but do know that it is vital.

RESPONDENT E

Barriers experienced

The most difficult barrier that we have had to overcome is staunch resistance from line managers in terms of the employment of people with disabilities. While it is an organisational goal to improve the number of people with disabilities in the organisation, line managers do not want to deal with the practicalities of this goal. They see accommodating people with disabilities as just another difficulty they have to deal with, not an opportunity. Line managers also have to overcome social barriers within their sections.

In my opinion there is also a lack of suitable qualified disabled candidates in the job market, and this is a big barrier in terms of recruiting people with disabilities.

Finally we have branches in almost every town and city in South Africa. This means that some of our buildings are not disability friendly at all, however to make the necessary adjustments to all of our buildings will results in huge capital expenditure which is currently to my knowledge not budgeted for.

Removal of barriers

In terms of social barriers we try and promote an open-minded culture and thereby raise the level of awareness regarding disability. Of course this is very difficult to measure and control as every person is an individual.

Although we do not have formal measures in place, which compel line managers to hire people with disabilities, we do have policies in place, which encourage them to actively recruit people with disabilities. it is my opinion that this approach is more constructive than forcing them to do something.

We are currently investigating and reviewing certain locations and branches which are totally disability unfriendly, however at present there are no formal measures in place to address the accessibility of our buildings.

Success of measures

We have been successful in creating a culture that is open-minded and aware. I would also have to say that line managers are starting to embrace the idea of employing people with disabilities.

To be honest though, we have not been successful as yet in terms of making our buildings disability friendly (apart from newly built facilities). We have also not been as successful as we would like in terms of attracting suitably qualified candidates with disabilities. We are therefore considering an incentivisation/penalisation of top management for achieving/failing to achieve employment targets.

Physical versus social barriers

Social barriers. While it might sound as if the majority of our obstacles are of a physical nature, I believe that personal beliefs and attitudes are one of the most difficult things to change, especially in an organisation as large and dispersed as ours.

Extraordinary expenditure

Our current expenditure on accommodating people with disabilities has not been too exorbitant, however, this is largely due to the fact that the measures that we have implemented have been more tacit rather than explicit. I also believe that the employment of a person with a disability does cost more than an able-bodied person and of course this expense will increase as the severity of the disability increases.

Legislation

The main way legislation assists in the employment of people with disabilities is in terms of compliance with the EEA as people with disabilities are also considered as designated employees.

Main reason for hiring an employee with a disability

The main driver behind our employment of people with disabilities is social responsibility. We strive to be an employer of choice for all disadvantaged groups, and recognise that special efforts are required to assist in the development of employees do not posses the necessary experience and skills.

Main reason for not hiring an employee with a disability

If they are not suitably qualified and experienced to do the job.

How can we improve the employment of people with disabilities?

A public awareness campaign needs to be launched that highlights people with disabilities, their abilities and the barriers, which they face in everyday life. I also think employers should be allowed to advertise publicly for people with disabilities, while I know it is contradictory to anti-discrimination legislation, it would allow employers to actively recruit people with disabilities.

RESPONDENT F

Barriers experienced

The main barrier we are currently experiencing is in terms of accessibility. Our buildings are definitely not disability friendly, and it is only recently that we have started taking steps to make them more accessible to people with disabilities. Linked to this, is the fact that we do not have specialised workstations to deal with the variety of disabilities that we encounter. While there is capital available for improvements we also experience a lot of resistance from line managers who are responsible for profitability in their own departments. Line managers are also not equipped in terms of skills and knowledge to accommodate people with disabilities as no formal guidelines are currently in place.

The obvious social barriers are there such as stereotyping especially by line managers in terms of the abilities of the disabled. And linked to this is a barrier of lack of progression of people with disabilities in the organisation. People with disabilities have cited this as their biggest barrier in the organisation. They seem to hit a ceiling and do not progress very far. I think stereotyping and preconceived ideas of abilities have a lot to do with this.

A big barrier as well is the fact that employees with disabilities do not disclose their impairments. I am sure that the number of people I indicated to you is actually far greater. We have not however, had an active programme to encourage people with disabilities to disclose these disabilities.

I think a general barrier we experience is that we have followed a reactive rather than proactive approach to employing people with disabilities. We have tended to focus on race and gender far more than disability and I think this is largely due to the EEA.

Removal of barriers

We are currently in a process of refurbishing our head office as well as some of our other buildings. One of the main drivers behind this refurbishment is to make the buildings more disability friendly. We have included a number of wheelchair ramps, widened our doorways, improved the lifts and many other modifications.

We are busy writing a set of guidelines aimed at line managers, which will aid in the management of disability related issues. We have in place a incentivisation/penalisation programme in terms of transformation for line managers, however, at this stage managers are only penalised for non-compliance in terms of race. Therefore they do not feel compelled to hire people with disabilities.

We have invited guest speakers from the National Council for the Blind to do awareness speeches within the organisation about certain issues pertaining to the disabled and more specifically, the visually impaired.

Success of measures

We have only just started to take a serious look at the employment of people with disabilities and as I stated much of what we have done has been reactive in nature. The steps we have taken to eliminate the barriers we face have not been in place long enough for us to evaluate their true effectiveness. I must however state that in my opinion our buildings have improved extensively and are continuing to do so.

Physical versus social barriers

Social barriers. As you can see most of the steps we have taken have been to eliminate physical barriers. This is because we have the resources to do it, by this I mean money. However, it is much more difficult to change the EQ of a person i.e. his attitudes and behaviour. This is made even more difficult by the

fact that we do not have the skills internally to change the awareness levels of able-bodied staff.

Extraordinary expenditure

Yes. We have put a lot of money into making our facilities disability friendly. Also the costs of specialist recruitment agencies are much higher than your average recruitment agency. There is a definite link between the cost of accommodating someone and the type of disability.

Legislation

As I said earlier I do not think that the disability issue is enforced by legislation, as is the race and gender issue, so I would say that the EEA is not effective in compelling organisations to employ people with disabilities. The Code is effective in creating a better understanding of disability and reasonable accommodations.

Main reason for hiring an employee with a disability

To be seen to be doing the right thing, in other words, to protect and enhance our image.

Main reason for not hiring an employee with a disability

Because of the barriers identified earlier. I really don't think that our organisation is ready to actively recruit people with disabilities. I think a number of improvements to our infrastructure and social environment must first be made.

How can we improve the employment of people with disabilities?

A proactive approach is needed. A national awareness campaign must be held, but it must be directed at school children, because by the time people are adults they have developed stereotypes that are very difficult to change. I think the campaign should focus on the many successes in the workplace and in life by people with disabilities. Internally within organisations, this can be achieved by having the right role models, for example one of our top managers is disabled but he still does his job as well as anyone else, this helps create awareness and inspire others.

RESPONDENT G

Barriers experienced

Our biggest barrier is a lack of information and awareness regarding people with disabilities among able-bodied staff. This results in the staff not knowing how to treat or react to people with disabilities. Therefore they often rely on the opinions and ideas, which are often incorrect.

A second major barrier that we experience is that line managers become frustrated with having to deal with people with disabilities and all of the issues surrounding the employment of people with special needs. Line managers as with other staff are ill informed in terms of aspects of managing people with disabilities and there is a clear need for a policy or rather a set of guidelines for the management of people with disabilities.

We also experience various barriers relating to our physical infrastructure. For example we only have toilet facilities for people with disabilities on every second or third floor of our buildings, and while we have only been in these offices for two years, some of our other offices are very old and are not suited for both disabled employees and clients. A major difficulty we are experiencing in terms of physical barriers is what to do when a staff member who has been accommodated leaves the organisation. For example, we have a relatively senior person who is blind working in this office. He is able to do his job very well and this is largely due to workplace adjustments that have been made and specialised equipment that has been purchased for him. These expenses have been quite large. The dilemma lies in when the person decides to leave the organisation. Do we show that we have invested in the individual and not the organisation and therefore allow the individual to take with him his modified workplace and equipment (as you would with someone who leaves with qualifications you have paid for), or do you retain the equipment et cetera? This however, implies that if you don't want the equipment to gather dust you must fill the post with a disabled person. We

have not yet got the answers to all of these questions, but it is an issue we are currently dealing with.

Removal of barriers

We are currently writing a policy and set of operating principles on how to deal with people with disabilities and how the organisation intends increasing the representivity of people with disabilities. For now this policy is directed at line managers only, however if it proves to be a success we will expand the effort to all staff to help create awareness.

We have also put in place workshops aimed at changing the attitudes of able-bodied staff that work closely with people with disabilities. The purpose of these workshops is to educate staff and let them interact with people with disabilities.

In terms of the physical barriers mentioned above I think that the possibility of government providing a portion of accommodation costs and the organisation providing a portion should be investigated, thereby the government and the organisation are investing in the individual and they are free to leave the organisation with whatever specialised equipment they need. However this is only my opinion and it remains to be seen how we will overcome these barriers.

Success of measures

Our focus on disability and people with disabilities is still in its infancy and it still remains to be seen both how we will overcome the various hurdles identified and whether it will be a success. However I am optimistic that we have the talent and resources to overcome any barrier.

Physical versus social barriers

In my experience thus far it would seem that social barriers are the most difficult to overcome, due to the fact that you need to first educate individuals to be able to change their attitudes.

Extraordinary expenditure

The use of specialist recruitment agencies, and the placing of recruitment advertisements in special media publications have resulted in certain expenditures being incurred. For example if you are advertising for a post that you want someone who is blind to fill, you cannot advertise in the normal print media. Yes, there is a direct relationship between the cost of accommodating someone and the degree of severity of their disability.

Legislation

The EEA assists in that it forces compliance in terms of quotas on organisations, however in my opinion it is a very "levelled" piece of legislation. By this I mean that the top priority is placed on black people, then other people of colour, then females and as a last resort people with disabilities. Therefore organisations only begin to focus on people with disabilities once they have sorted out the other designated groups. The code of good conduct provides a very good framework and definitions, which can be used to create disability management policy.

Main reason for hiring an employee with a disability

The main reason currently why we will hire someone with a disability is to proactively protect our image as one of the top companies to work for in South Africa. Once a company's image is tarnished it is very, very difficult to fix it.

Main reason for not hiring an employee with a disability

If the accommodation of an individual with a disability will be too excessive on the company. However, it must be stated that we will incur great expenses to hire the right individual for the job.

How can we improve the employment of people with disabilities?

Someone must take responsibility for the training and skills development of people with disabilities on a national level. My suggestion is that this should be a government initiative.

RESPONDENT H

Barriers experienced

Generally we have experienced very few difficulties in terms of the employment of people with disabilities. I think the primary reasons for this is the fact that we have not actively recruited for people with disabilities and the people with disabilities who are in our service are mostly able to control the handicapping nature of their disabilities with medication. Probably the biggest barrier that we have experienced is the lack of suitably qualified disabled candidates. Our business and the nature of our work is very specialised and requires individuals with a very high intelligence and ample experience, and I assume that there are very few people with disabilities in South Africa who possess these skills. This is unfortunate and will take time to change, however the changes must first come at the educational level. Other than this we have experienced minor physical barriers, but they have been easily overcome (for example wheelchair ramps) and therefore I don't think they can be included as actual barriers, rather accommodations.

Removal of barriers

This might come across as arrogant but we have a very open-minded, informed and educated staff complement, which makes the elimination of social barriers very simple. There are no strange glances or comments or sniggering when a person with a disability enters a room and staff understand the disability and get on with their jobs.

In terms of overcoming physical barriers we have, where necessary, made work place adjustments and building modifications, but I would prefer to see these as reasonable accommodations rather than overcoming huge obstacles.

Success of measures

Our staff with disabilities are very happy at our organisation therefore I can only assume that the measures we have put in place have been successful, I think it is a culture that is successful rather than a set of measure that have been implemented.

Physical versus social barriers

I can only re-emphasise the fact that we have not experienced the usual social difficulties one would expect such as stereotyping and stimatisation, and I would therefore have to say that physical barriers are the most difficult to overcome as very often they result in capital expenditures.

Extraordinary expenditure

In my experiences we have not yet had to incur great expenses in terms of accommodating people with disabilities, however if it was required we would be willing to incur these costs. I would agree that there is a direct relationship between the degree of disability and the cost of accommodation.

Legislation

I don't think that current legislation assists the cause of people with disabilities. I must emphasize the fact that we hire people for the skills they bring to our organisation not their colour, gender or disability. While we adhere to the principles of the EEA we will not be bullied into hiring someone who will not add value to the organisation!!!

Main reason for hiring an employee with a disability

If he or she is the best person for the job, and for no other reason! However, it is good for the organisations image as top organisation to work for.

Main reason for not hiring an employee with a disability

If the person is unemployable in terms of his or her skills and abilities.

How can we improve the employment of people with disabilities?

The awareness of people with disabilities, and more importantly tolerance of people with disabilities needs to be promoted nationally by government, in a campaign similar to that of the HIV/AIDS awareness campaigns that are currently being run.

RESPONDENT I

Barriers experienced

Probably our biggest barrier to employing people with disabilities lies not in the individuals, but in the nature of our business. The majority of our workforce spends more time in the offices of our clients than in their own. Therefore the employment of people with disabilities, especially physical disabilities, is very difficult. Added to this, the portion of our workforce that does reside at our offices, our support staff is very stable and has a very low turnover rate. Therefore there are limited opportunities to employ people with disabilities. I would say that our profession is very disability "unfriendly". Also the fact that our employees spend much of their time in the offices of clients creates a whole new set of barriers. It means that not only do we have too eliminate physical and social barriers within our organisation, to a certain extent we have to do the same in our client's organisation.

Another barrier is the lack of disabled individuals with the required skills, training and related experience in our profession.

Removal of barriers

To overcome the barrier of having to work at various locations we have created teams in which people with disabilities operate, this eliminates the need for personal assistance for each individual. Other members of the team assist the individual in terms of mobility and accessibility; however, the individual is responsible for all aspects of his or her job and is held accountable for this. We do not believe in feeling sorry for anyone!!! Clients are also informed of the nature of the disability and sensitised in terms of any special needs of the individual.

We have a culture of mutual respect, teamwork and openness and I think this has helped eliminate many of the social barriers that one might expect to

encounter. These values are instilled in every individual from the first day they enter the organisation.

Success of measures

We have been very successful in terms of eliminating physical and social barriers within our own organisation as well as in clients, however, there are still some of our clients who prefer able-bodied staff and are reluctant to accept employees with disabilities.

We have not yet implemented a programme to promote the entry of people with disabilities into our profession, but intend pushing this in 2003. We have been successful in creating this critical mass amongst black people and I am convinced we can do the same amongst people with disabilities.

Physical versus social barriers

Most definitely social barriers. It is not the client's buildings or the ability of our disabled employees that deters them from taking a person with a disability, but rather their perceptions that they are not able to do the job as well as an able-bodied individual. These perceptions are very difficult to change.

Extraordinary expenditure

I don't think that we have spent any more on employing an individual with a disability than we do when we headhunt a skilled professional or buy one out from a competitor. We look for the best talent and are willing to pay a lot of money for the right people. In our case the cost of accommodating someone is definitely linked to the severity of disability.

Legislation

I think that the EEA still has a long way to go in terms of promoting the employment of people with disabilities. People with disabilities clearly play

second fiddle to people of colour. However employers are still compelled to hire people with disabilities.

Main reason for hiring an employee with a disability

While I admit that something needs to be done about the representivity of people with disabilities in our profession we will not hire people just to correct this. We will only hire someone who has the skills and abilities to do his or her job effectively.

Main reason for not hiring an employee with a disability

If they do not have the ability to do the job.

How can we improve the employment of people with disabilities?

As I mentioned earlier the representation of people with disabilities in our profession needs to be increased. We had the same situation with black people in our profession, to overcome this we embarked on a huge capacity building initiative to build a critical mass of employable individuals. I think this same methodology could be quite successfully applied to people with disabilities as a group.

RESPONDENT J

Barriers experienced

It is difficult to specify the actual barriers we have experienced, as I don't believe we have tested them in the amount of detail that you are perhaps looking for. I think one barrier is that of disclosure. While I told you we don't employ any people with disabilities, I don't actually believe this is true, it is only that we do not have any records of people with disabilities in the organisation. This is largely due to the fact that people have not voluntarily disclosed their disabilities and we have not requested this of them at any time.

Sensitisation of the organisation and a true understanding of what disabled means seems also to be a prominent barrier at the moment.

We are also focused on our existing budgetary pressures and have not as such injected too much money into the employment of people with disabilities.

Our infrastructure is relatively accessible to the disabled and I do not foresee to many obstacles in this area.

Removal of barriers

We have made some progress with disabled recruitment, but not due to specific initiatives being embarked on. We have also not actively gone out and looked for employees with disabilities. Our current focus is mainly on correcting the racial composition of the group. I would imagine that we would be more receptive to a specific disabled drive once we have made more significant progress in this area.

We have made contact with a specialist recruitment agency, Di@/bility. They have assisted us in terms of creating awareness and sourcing people with disabilities.

Success of measures

We have not implemented any active measures to change the disability situation in our organisation and I therefore cannot comment on the success of such measures.

Physical versus social barriers

I would suspect in our organisation social barriers, as I believe our infrastructure is currently very disability friendly.

Extraordinary expenditure

To this date the employment of people with disabilities has not resulted in any extraordinary expenditures, however we would be willing to incur such costs if a person with a disability is the right candidate for the job. I would assume that the more severe a disability, the higher the cost of accommodation would be.

Legislation

The EEA compels organisations to hire people with disabilities, however that is all that it does. It does not provide guidelines on best practices in terms of employing disabilities. *Have you heard of the INDS or Code?* No.

Main reason for hiring an employee with a disability

If they are the right person for the job and they can add value to our group.

Main reason for not hiring an employee with a disability

If their disability inhibits them from doing the job that they are applying for.

How can we improve the employment of people with disabilities?

People with disabilities must ensure that they are employable, in terms of their skills and abilities. This can be made possible by large organisations offering internships or learnership programmes especially for people with disabilities. We prefer to empower individuals rather than provide short-term charitable handouts.

APPENDIX D

ORGANISATIONS SPECIALISING IN THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

1. Access College

   Access College is a business college, which specialises in training people with disabilities so that they can compete for employment in the open market.

2. Altitude

3. Association for people with disabilities

   To enhance full integration of people with disabilities into their communities through removal of disabling barriers preventing integration.

4. DEAFSA

   DEAFSA's constitution and activities are aimed at all people who are affected by a hearing loss.

5. Di@/bility

   Specialist recruitment and employment services organistion specialising in the employment of people with disabilities.

6. DeafBlind South Africa

7. Equitability

8. Leading equity options

9. South African National Council for the Blind

   The South African National Council for the Blind (SANCB) is a Non Government Organization (NGO) striving to meet the needs of all blind and partially sighted people in South Africa. This support includes rehabilitation, education and training, the provision of assistive devices, social and economic development, the prevention of blindness and the restoration of sight.

10. PADI

    PADI is a group of people - both disabled and non-disabled - who since 1987 have been committed to education and awareness on disability issues in both the academic and business worlds.

11. School for the blind

12. Quadriplegic Association of South Africa

    The Association and its affiliated branches was established to assist quadriplegics by providing a range of highly specialised support services that are designed to promote and encourage their rehabilitation, community integration and independence.