

## People with Disabilities in the Dog Show Ring: Part 2 of a 3 part article intended for CKC Dog Judges

*Dr. Jail Forsythe*

Part 1 of this 3 part article focused on our social and legal responsibilities when interacting with people with disabilities. It explained how our understanding of disability is evolving to include medical conditions that were unheard of years ago. For example, sensitivity to chemicals in the workplace and alcoholism are now recognized as disabling medical conditions. Part 1 concluded by examining how our choice of words impacts an individual's self esteem and perceived "value" to society.

Part 2 moves beyond understanding to action. This article examines what may be required to fulfill the legal duty to accommodate the needs of people with disabilities. This duty encompasses two scenarios: 1) equal access to premises; and 2) accommodation to ensure equal opportunity. These duties apply to organizations that function in the public, private and not for profit sectors. Dog shows are normally held by not for profit organizations i.e. "clubs". They are subject to Provincial or Federal law and CKC governance.

The CKC does not have a formal policy relating to conformation exhibitors with disabilities. The CKC's general principle is that handlers with disabilities may compete providing they can move about the ring. As of June 22, 2005, neither AKC Customer Relations Department nor the Kennel Club (UK) have responded to an April, 2005 email request for information about its disability policies and conformation dog shows. With the CKC's perspective in mind, let us examine access to the dog show facility and accommodation at the show.

Dog clubs tend to lease a public facility to serve as their dog show venue. A person with a disability is entitled to equal access to a public facility. Before leasing a public building, a dog club should consider whether the venue accommodates a person with a disability. Does the parking area have cut away curbs? Are there ramps or elevators in addition to stairs? Are door ways wide enough to allow a wheelchair to pass?

A dog club's responsibility is not limited to access to the building and washrooms; it extends to grooming areas, ring entry ways, and spectator observation areas. If a building does not offer access to people with disabilities, the club should consider an alternate location. Ensuring that a building is accessible is a different responsibility from ensuring that a person with a disability has an equal opportunity to participate.

For example, imagine that you have an invisible disability ...a medical condition that makes it impossible for you to climb stairs and that requires you to take a break from a computer screen every two hours. You apply for a job in a public building. You are entitled by law, as a person with a disability, to access your place of work. You need not give "notice" of your inability to use the stairs.

But, what if climbing the stairs is part of the job requirements? Can the employer refuse to hire you? Case in point: in order to be hired as a firefighter, each candidate must run with the same amount of weight, across the same distance, and in the same minimum time. This test seems fair: everyone has the same chance to succeed. Or do they? The evidence in this case proved that due to physical differences between men and women, it was highly improbable that any female applicant could pass this test. The Court concluded that this seemingly fair test created a "systemic" barrier; it discriminated against female candidates as a group, even though it was intended to be fair to all candidates. The evidence in this case also demonstrated that the minimum time stipulated was unrelated to effective fire fighting and therefore not a *bona fide* occupational requirement. The test was construed as discriminatory. The employer was required to find a more equitable screening mechanism.

Human rights law in Canada has evolved dramatically over the years. The idea that "what is fair for one is fair for all" is now recognized unfair to certain groups of people i.e. those that have documented differences due to gender or disability. The law now requires that work place "tests", "rules" or "policies" must have: a) a rational connection to actual job performance; and b) a non-discriminatory impact. These principles are transferable from the workplace to a community setting such as a dog show; they justify why some people might be entitled to different treatment at a dog show.

Going back to our example, once you are hired, your employer is required to accommodate your medical needs to the extent of "undue hardship". If your disability is invisible, it is impossible for the employer to anticipate that you need to take a break from the computer every two hours. The law recognises that employers are not mind readers. The Courts have specified that the onus shifts to the employee to make medical needs known to an employer.

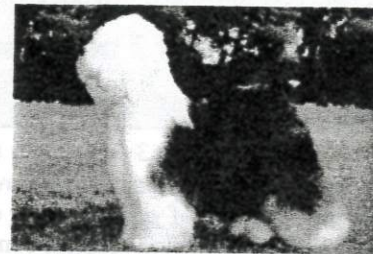
Depending on the nature of the condition and your employer's circumstances, the accommodation may involve an inexpensive physical modification to a work area. Or, it may involve a well thought out restructuring of an employee's duties or working conditions.



*Puppy coat*



*Teenage Coat*

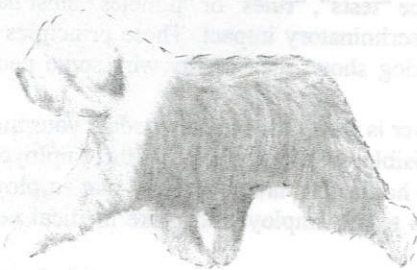


*Adult Coat*

and you should see the beginnings of guard hair coming in. You can also do this if you are querying whether the dog presented to you has the coat he was born with or heavily enhanced. I do not feel that Old English need to have their coat backcombed. A good coat will be thick enough to stand out from the body. Head coats may need to be so that the dog can see properly as we have bred more coat in than they need. Also the head coat is washed so often that it will probably lay flat if not helped. Some of the grooming is getting very extreme and looks very "cartoonish". There are judges who will ask for backcombing to be removed before judging.

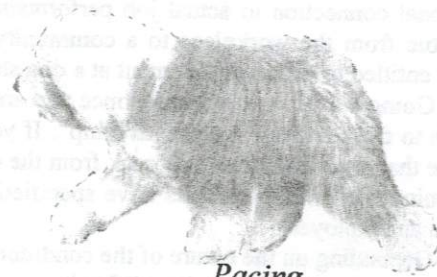
Markings should not influence your decision and white splashes in the body or dark markings on the head or in the white are of no consequence. Adolescent dogs often go through very washed out coat stages or sometimes turn brownish as the puppy coat dies. Please check the roots to see what the color is before penalizing for a brown coat. An adult should definitely have a grey coat.

"Soundness should be considered of greatest importance". I think that exhibitors sometimes interpret this to mean the fastest is the best. They should have a nice easy ground covering gait when moved at a trot. Legs flailing in all directions are not correct. When moved at slower speeds they will naturally amble or pace. This is natural and it is the gait used when they move stock and they can go for miles at his speed and when used as Drover's dogs they did. The OES roll is more easily seen at a slower speed. This roll is in the rear NOT the front. Movement in the show ring is universally judged at a trot but keep in mind that these other movements are typical of our breed. Some judges will move them at 2 speeds. When moving them away from you watch their feet as it is easy to be deceived by hair. I think that it takes a while to learn to judge movement in coated dogs and any time spent sitting at ringside trying to learn would be worthwhile. Herding breeds have a lower head carriage as their speed increases. They do not have a Poodle's head carriage. I would hope that you would enjoy judging our breed and not view it as a large puffball but as a credible member of the Herding Group.



*Trotting*

*Illustration D. Heck*



*Pacing*

*Illustration D. Heck*

For example, imagine that you have an invisible disability ... a medical condition that makes it impossible for you to climb stairs and that requires you to take a break from a computer screen every two hours. You apply for a job in a public building. You are entitled by law, as a person with a disability, to access your place of work. You need not give "notice" of your inability to use the stairs.

But, what if climbing the stairs is part of the job requirements? Can the employer refuse to hire you? Case in point: in order to be hired as a firefighter, each candidate must run with the same amount of weight, across the same distance, and in the same minimum time. This test seems fair: everyone has the same chance to succeed. Or do they? The evidence in this case proved that due to physical differences between men and women, it was highly improbable that any female applicant could pass this test. The Court concluded that this seemingly fair test created a "systemic" barrier; it discriminated against female candidates as a group, even though it was intended to be fair to all candidates. The evidence in this case also demonstrated that the minimum time stipulated was unrelated to effective fire fighting and therefore not a *bona fide* occupational requirement. The test was construed as discriminatory. The employer was required to find a more equitable screening mechanism.

Human rights law in Canada has evolved dramatically over the years. The idea that "what is fair for one is fair for all" is now recognized unfair to certain groups of people i.e. those that have documented differences due to gender or disability. The law now requires that work place "tests", "rules" or "policies" must have: a) a rational connection to actual job performance; and b) a non-discriminatory impact. These principles are transferable from the workplace to a community setting such as a dog show; they justify why some people might be entitled to different treatment at a dog show.

Going back to our example, once you are hired, your employer is required to accommodate your medical needs to the extent of "undue hardship". If your disability is invisible, it is impossible for the employer to anticipate that you need to take a break from the computer every two hours. The law recognises that employers are not mind readers. The Courts have specified that the onus shifts to the employee to make medical needs known to an employer.

Depending on the nature of the condition and your employer's circumstances, the accommodation may involve an inexpensive physical modification to a work area. Or, it may involve a well thought out restructuring of an employee's duties or working conditions.

Once on notice, an employer is required to consider what can be done to address the employee's needs, to the point of "undue hardship". Each employer's response will depend upon the circumstances i.e. the size of the organization, the flexibility of the workforce, the impact on moral and the collective agreement, safety, financial impact, etc. A large organization might be able to easily adjust duties so that the employee can alternate between the computer and other activities. A small organization may not be able to make this adjustment without suffering a tremendous financial impact. In the former case, the employee's needs must be accommodated; in the latter case, if proven, there is no need to accommodate..

For example, imagine that you have an invisible disability ... a medical condition that makes it impossible for you to climb stairs and that requires you to take a break from a computer screen every two hours. You apply for a job in a public building. You are entitled by law, as a person with a disability, to access your place of work. You need not give "notice" of your inability to use the stairs.

But, what if climbing the stairs is part of the job requirements? Can the employer refuse to hire you? Case in point: in order to be hired as a firefighter, each candidate must run with the same amount of weight, across the same distance, and in the same minimum time. This test seems fair: everyone has the same chance to succeed. Or do they? The evidence in this case proved that due to physical differences between men and women, it was highly improbable that any female applicant could pass this test. The Court concluded that this seemingly fair test created a "systemic" barrier; it discriminated against female candidates as a group, even though it was intended to be fair to all candidates. The evidence in this case also demonstrated that the minimum time stipulated was unrelated to effective fire fighting and therefore not a *bona fide* occupational requirement. The test was construed as discriminatory. The employer was required to find a more equitable screening mechanism.

Human rights law in Canada has evolved dramatically over the years. The idea that "what is fair for one is fair for all" is now recognized unfair to certain groups of people i.e. those that have documented differences due to gender or disability. The law now requires that work place "tests", "rules" or "policies" must have: a) a rational connection to actual job performance; and b) a non-discriminatory impact. These principles are transferable from the workplace to a community setting such as a dog show; they justify why some people might be entitled to different treatment at a dog show.

Depending on the circumstances, a Club may request documentation from the person seeking accommodation i.e. a letter from a physician stating that a person has a disability (details about the medical condition should not be required out of respect for individual privacy) and the type accommodation needed (specifics as to what type of accommodation are necessary in order for the Club to ascertain what it can do to respond).

The CKC dog show rules put the conformation judge in control of the dog show ring. On the other hand, it is the Club that is responsible for the physical set up of the ring and its equipment. Bearing these obligations in mind, both the club and the judge have a duty to respond to an exhibitor's request for accommodation. The judge and the club must be open minded in doing so and not allow "tradition" or "everyone gets the same treatment" to cloud their thinking.

For example, does it create an "undue hardship" for a Club to provide a table with legs that can be adjusted upward or downward, if that is what is required to accommodate an exhibitor with a disability? Inconvenient maybe, an extra expense yes, but not likely so significant an item as to put the Club's future ability to hold dog shows at risk (i.e. the undue hardship test).

If a judge or show official is approached during the show or at ringside with an accommodation request, it is prudent to make note of the request in case an issue arises later. For example, a judge could record: the exhibitor's armband number; the nature of the request, the date and time of the request, what you did in response, whether the Show Superintendent was called to address the matter; the Club's response; whether or not the request was accommodated; and if so, how. If an exhibitor files a human rights case against you (as an independent contractor) and the Club (as the show giving organization if incorporated), or the individual club members (if not incorporated) for failing to accommodate, your notes may be very helpful to refresh your memory and demonstrate that you did everything within your control to accommodate the exhibitor. It may be necessary for a judge to take a break while the Club responds to the exhibitor's accommodation request. Your record may also be helpful if the CKC or an AKC rep questions your judging rate.

Some people may feel that all this is overkill, "why not just hire a handler?" The same question could be asked "why not just go on social assistance?" Canadian courts at the highest level recognize that a person with a disability has just as important a place in our society as the able bodied person. As a result of that fundamental principle, which is protected by the Canadian Charter of Rights and Freedoms, an exhibitor (or employee) with a disability should not be required or pressured into giving up their hobby (or job) simply because a handler (or social assistance) is an option or because others perceive accommodation as an inconvenient nuisance.

Dog show judges and club officials are in positions of leadership and authority. They have a duty to support all people in achieving a sense of pride and accomplishment at dog shows. Part 3 of this article will look at some practical suggestions for a judge when contracting with a dog club. Examples from judges who have had experiences or concerns about their contract or about a disability are wonderful examples that help others learn. Your contributions are welcome and will be very helpful to me in writing Part 3. Please email me at [lionhrt@shaw.ca](mailto:lionhrt@shaw.ca) with your experience. I will try to refer to your experience, in a manner that does not identify you, in the concluding third part of this article.

1. © 2005 Dr. Gail H. Forsythe, Calgary, Alberta is a licensed CKC judge and member of the Law Societies of Alberta (1987) and British Columbia (1993). She has extensive law practice and academic experience assisting employers and organizations to address human rights issues. She has spoken at over 200 workplaces and conferences, and published in domestic and international legal journals on the topic of disabilities and human rights in the workplace. This article is for information and educational purposes only and not intended as legal advice. If you have a concern of this nature, consult a lawyer in your area for advice specific to your case.

2. Elio Furlan, Canadian Kennel Club Shows and Trials Division, April 11, 2005. Mr. Furlan advises that the CKC's obedience rules make reference to obedience handlers with disabilities. The CKC responded to the request for information about its policies within 24 hours.

3. Furlan *Ibid*

4. AKC policy requires a person to give advance notice to a show giving Club if the person plans to use a motorized vehicle at the dog show.

5. Research demonstrates that most accommodation requests involve minor adjustments to work areas and can be accommodated for less than \$500.