

A Practical Framework for Understanding the Duty to Make Reasonable Adjustments

A structured approach to identifying and addressing disadvantage under the Equality Act 2010

Introduction

The Equality Act 2010 places a positive duty on employers, education providers, organisations and service providers to avoid disadvantage for disabled people. This is done by making reasonable adjustments.

Difficulties about adjustments often arise because of a lack of understanding of what this duty means in real-life situations. Decisions are sometimes made without properly considering the nature of the disadvantage or the possible ways of removing it.

This document sets out a practical approach to the duty to make adjustments in a structured and transparent way. It translates the principles of the Equality Act into a step-by-step process that can be applied in everyday situations.

The aim is to assist employers and organisations to focus on the key questions they are expected to consider, including whether aspects of the environment, systems or working arrangements create disadvantage. By approaching these questions in a structured way, organisations are better able to remain compliant with the legislation and to encourage the best outcome for both parties.

When the Duty to Consider Adjustments Begins

For the purposes of this framework, the starting point is that the person involved is disabled, or could reasonably be recognised as disabled.

The duty to consider reasonable adjustments does not depend on the individual formally claiming disability. Organisations should be alert to situations where disability may reasonably be apparent from the circumstances.

In some situations the legislation also expects organisations to anticipate disadvantage where disability is reasonably predictable. In these cases

consideration of adjustments may need to begin even before a specific difficulty has been raised.

Once disability is known, apparent, or reasonably anticipated, organisations should begin considering whether aspects of the environment, systems or working arrangements place the individual at a disadvantage.

The duty to make reasonable adjustments does not depend on the disabled person making a request or identifying a solution. Once disability is known, or could reasonably be recognised, the organisation must take responsibility for identifying disadvantage and taking steps to avoid it.

If an organisation believes that the individual is not disabled, or that the duty does not apply, that position should be clarified at the earliest possible stage.

What the Duty to Make Adjustments Means in Practice

Although the relevant section of the Equality Act is commonly described as the duty to make reasonable adjustments, this wording can easily be misunderstood. The legislation is better understood as requiring organisations to take steps to avoid disadvantage arising from disability. The steps taken to achieve this are the adjustments.

For this reason, it is often more helpful to think of the duty as a duty to avoid disadvantage by making adjustments, rather than a simple duty to make adjustments in response to requests.

The duty cannot be understood simply as responding to requests made by individuals. It requires organisations to actively consider how disadvantage arising from disability might be avoided.

Because the duty is to take steps to avoid disadvantage, action is the starting point. Where a step would remove or reduce disadvantage, it should ordinarily be taken unless there is a sufficient reason why it would not be reasonable to do so.

How Misunderstanding Commonly Arises

The aim, confirmed in case law, is to place the disabled person as nearly as possible in the position they would have been in if they did not have the disability. That has to be the starting point when considering how the duty should be applied.

This principle is easily misunderstood if attention is directed to a proposed adjustment before the nature of the disadvantage has been properly understood.

Starting with the adjustment rather than the disadvantage may lead to solutions that do not properly address the underlying problem.

The Adjustment Decision Process

The duty to make reasonable adjustments can be understood as a structured decision-making process:

Recognise disability
Identify disadvantage
Consider possible changes
Identify which changes remove the disadvantage
Assess whether those changes are reasonable
If not reasonable – consider alternative changes

How to Identify the Disadvantage

To understand the disadvantage arising from disability, it is usually necessary to have some assessment of the individual's difficulties. However, the individual may not always be able to describe those difficulties in a way that clearly identifies the adjustments that may be required.

In some situations the disadvantage may be relatively obvious. In others, particularly in relation to neurodevelopmental conditions, mental health conditions or chronic illnesses, the interaction between the disability and the environment or systems involved may be less clear.

In these circumstances it may be necessary to obtain advice or specialist information, including occupational health input or other expert advice.

Considering Ways of Avoiding the Disadvantage

Once the disadvantage has been understood, the next step is to consider what would need to change in order to place the person as close as possible to the position they would have been in if they did not have the disability.

Possible changes might include changes to the physical environment, systems or procedures, methods of communication, ways in which work or tasks are organised, expectations about time or workload, or the provision of support or equipment.

At this stage the focus should be on identifying what changes could achieve the intended outcome, rather than immediately considering whether those changes are easy or difficult to implement.

Assessing Reasonableness

Once possible changes have been identified, the next step is to consider whether it would be reasonable for the organisation to implement those changes.

The assessment is not simply whether an adjustment is reasonable in the abstract, but whether there is any sufficient reason why it would be unreasonable not to make it.

This is an objective assessment made in relation to the organisation as a whole. What is reasonable may vary depending on the size, skills and resources of the organisation.

Decision-makers should consider the position of the organisation overall rather than the position of their own team or department.

Where an adjustment is straightforward to implement, low cost, and effective in reducing disadvantage, a refusal will normally require clear and specific justification.

In the absence of such justification, it is likely that the duty has not been complied with.

In practice, these factors will often indicate that an adjustment should be made.

Considering Alternative Ways of Avoiding the Disadvantage

If a particular adjustment is considered unreasonable, this does not end the process. The organisation must consider whether the same outcome could be achieved through different changes or a combination of adjustments.

The target of placing the individual in the position they would have been in but for the disability does not change simply because one adjustment cannot be implemented.

Summary of the Adjustment Process

The duty to make reasonable adjustments can be understood as a structured process designed to avoid disadvantage arising from disability.

In practical terms organisations should:

1. Recognise disability.
2. Identify the disadvantage created by the interaction between the disability and the environment or system.
3. Consider possible changes that could remove or reduce that disadvantage.
4. Identify which changes would most effectively achieve that aim.
5. Assess whether those changes are reasonable for the organisation to implement.
6. If necessary, consider alternative ways of achieving the same outcome.

The legal basis for this framework, including relevant provisions of the Equality Act 2010, Equality and Human Rights Commission guidance, and key case law, is set out in Appendix A.

Appendix A – Legal Foundations

1. Statutory Framework – Equality Act 2010

The duty to make reasonable adjustments is set out in sections 20–21 of the Equality Act 2010 and applies across employment (Part 5), education (Part 6), and services and public functions (Part 3).

Section 20 establishes that where a provision, criterion or practice, a physical feature, or the absence of an auxiliary aid places a disabled person at a substantial disadvantage compared with a non-disabled person, the organisation is required to take reasonable steps to avoid that disadvantage.

Section 21 provides that a failure to comply with this duty constitutes discrimination.

The concept of “substantial disadvantage” is central to the operation of the duty and requires a comparison with persons who are not disabled.

The definition of disability is set out in section 6 of the Act and applies consistently across all Parts.

2. Equality and Human Rights Commission (EHRC) Guidance

The Equality and Human Rights Commission has issued statutory Codes of Practice and Technical Guidance which explain how the duty should be applied in practice across different sectors. These include:

- Employment Code of Practice (Chapter 6)
- Services, Public Functions and Associations Code of Practice (Chapter 7)
- Technical Guidance on Further and Higher Education

Across all areas, the guidance consistently emphasises that:

- The duty is to take steps to avoid disadvantage arising from disability
- The process should begin by identifying the disadvantage
- Consideration must then be given to what changes could remove or reduce that disadvantage

- The effectiveness of the adjustment is a key factor
- The question of reasonableness is an objective assessment based on the organisation as a whole

The guidance also makes clear that in some contexts, particularly in relation to services, the duty is anticipatory and requires organisations to consider in advance the needs of disabled people generally.

3. Structured Approach to the Duty

Case law has confirmed that the duty to make reasonable adjustments must be approached in a structured way.

In *Environment Agency v Rowan* [2008] IRLR 20, the Employment Appeal Tribunal held that a tribunal must identify:

- The provision, criterion or practice (PCP)
- The nature and extent of the substantial disadvantage
- The steps that could be taken to avoid the disadvantage

This structured approach reflects the sequence set out in section 20 and underpins the framework described in this document.

4. Purpose of the Duty

The purpose of the duty is to achieve substantive equality by removing disadvantage, not simply to treat individuals in the same way.

In *Archibald v Fife Council* [2004] UKHL 32, the House of Lords confirmed that the duty may require more favourable treatment of a disabled person in order to remove disadvantage.

In *Paulley v FirstGroup plc* [2017] UKSC 4, the Supreme Court emphasised that the duty is intended to ensure that disabled people are able to access services as closely as possible to the position of non-disabled persons.

These authorities confirm that the focus of the duty is on outcomes and the removal of barriers.

5. Knowledge of Disability

In employment and education contexts, the duty generally arises where the organisation knows, or could reasonably be expected to know, that a person is disabled and is likely to be placed at a disadvantage.

In *Gallop v Newport City Council* [2013] EWCA Civ 1583, the Court of Appeal held that an employer must form its own view as to whether an individual is disabled and cannot rely uncritically on external advice.

In *Donelien v Liberata UK Ltd* [2018] EWCA Civ 129, the Court of Appeal considered the scope of constructive knowledge and confirmed that reasonable steps must be taken to establish the position.

In contrast, in the context of services, the duty is often anticipatory and does not depend on knowledge of an individual.

In *University of Bristol v Abraham* [2024] EWCA Civ, the Court of Appeal confirmed that the duty to make reasonable adjustments arises from the organisation's knowledge of the disability and the resulting disadvantage. The assessment is not limited to adjustments proposed by the individual but requires consideration of what steps the organisation ought to have taken in light of that knowledge.

6. Identifying Disadvantage

A failure to identify the relevant disadvantage will undermine the proper application of the duty.

In *Environment Agency v Rowan*, it was made clear that identifying the disadvantage is a necessary step before considering adjustments.

In *Project Management Institute v Latif* [2007] IRLR 579, the tribunal emphasised that the disadvantage must be clearly established and linked to the disability.

7. Considering Adjustments

Once disadvantage has been identified, the organisation must consider what steps could be taken to avoid it.

In *Archibald v Fife Council*, the House of Lords confirmed that adjustments may include significant changes, such as redeployment, and are not limited to minor modifications.

This reflects the broad scope of the duty under section 20.

8. Effectiveness of Adjustments

An adjustment must be effective in removing or reducing the disadvantage.

In *Noor v Foreign and Commonwealth Office* [2011] EqLR 1022, it was confirmed that the question is whether the step would alleviate the disadvantage in practice.

In *Paulley v FirstGroup plc*, the Supreme Court emphasised that effectiveness must be assessed in real-world conditions.

9. Reasonableness

The duty is limited to steps that are reasonable.

Relevant factors include:

- The effectiveness of the step
- The practicality of implementation
- The cost and the organisation's resources
- The extent to which the step would disrupt activities

In *Cordell v Foreign and Commonwealth Office* [2012] ICR 280, the Employment Appeal Tribunal confirmed that cost and proportionality are relevant considerations in determining reasonableness.

The assessment is objective and relates to the organisation as a whole, rather than the views of an individual decision-maker.

10. Irrelevant Considerations

The assessment of reasonable adjustments should not be based on factors such as:

- A desire to treat everyone in exactly the same way
- The preferences or convenience of others
- The opinion of individual managers rather than the organisation as a whole

In *Archibald v Fife Council*, it was made clear that equal treatment is not the same as lawful treatment under the Act.

11. Continuing Nature of the Duty

The duty to make reasonable adjustments is ongoing.

If a particular adjustment is considered unreasonable, the organisation must still consider whether alternative steps could achieve the same outcome.

In *Leeds Teaching Hospital NHS Trust v Foster* [2011], it was confirmed that the duty is not discharged by rejecting a single proposed adjustment.

12. Overall Legal Position

Taken together, the statutory provisions, EHRC guidance, and case law establish that:

- The duty is to avoid disadvantage arising from disability
- The process must begin with identifying that disadvantage
- Adjustments are the means by which disadvantage is removed
- The question of reasonableness limits, but does not define, the duty

This structured approach applies across employment, education, and services, with differences arising only in context rather than in the underlying legal mechanism.

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