

Disability Discrimination – Reasonable Adjustments

What?

‘Disability’ is a protected characteristic under the Equality Act 2010. Failure to make **reasonable adjustments** for a disabled person, so that that person is not put at a **substantial disadvantage** to his peers who are not disabled, constitutes unlawful discrimination.

There is **no limit** to the amount of compensation that can be awarded for a successful disability discrimination claim.

Substantial disadvantage?

A substantial disadvantage is a disadvantage that is more than minor or trivial. This is a relatively low threshold, meaning that an employment tribunal is likely to find that a disadvantage is substantial.

Reasonable adjustments?

The duty to make reasonable adjustments is divided into three requirements:

1. Where a **provision, criterion or practice** puts a disabled person at a substantial disadvantage in comparison with individuals who are not disabled, his employer must take **reasonable steps** to avoid the disadvantage.
2. Where a **physical feature** puts a disabled person at a substantial disadvantage in comparison with individuals who are not disabled, his employer must take **reasonable steps** to avoid the disadvantage.
3. Where a disabled person would, but for the provision of an **auxiliary aid**, be put at a substantial disadvantage in comparison with individuals who are not disabled, his employer must take reasonable steps to provide the auxiliary aid.

The phrase ‘provision, criterion or practice’ covers almost anything an employer does which may affect the disabled person, including, for example:

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The information in this newsletter is not meant as a substitute for advice on particular issues and is written in general terms. You should seek specific advice before taking any action based on the information in this newsletter.

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- Training policies
- Selection criteria for recruitment, promotion and redundancy
- Imposing deadlines
- Dismissing the worker



A 'Physical feature' includes, for example:

- Steps
- Exits
- Toilets

An 'Auxiliary aid' is something which provides assistance or support to a disabled person, including, for example, an adapted piece of equipment.

What is a 'reasonable' adjustment?

Factors which an employment tribunal may take into account when deciding whether an adjustment is reasonable include, for example:

- The extent to which the adjustment would prevent the disadvantage
- The practicability of the employer making the adjustment
- The disruption caused by making the adjustment.

Some examples of reasonable adjustments are:

- Allowing the disabled person to work flexi-time
- Adapting a place of work, to make it accessible to the disabled person
- Transferring the disabled person to an alternative role, where no reasonable adjustment can be made to keep the person in his current role

Chapter 6 of the ECHR Employment Code recommends that, as a good starting point, employers should conduct a proper assessment in consultation with the disabled person, to identify what adjustments might be reasonably made.