

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Equality: Key Concepts

Chapter 2: Prohibited conduct

Section 20: Duty to make adjustments

Effect

82. This section defines what is meant by the duty to make reasonable adjustments for the purposes of the Act and lists the Parts of the Act which impose the duty and the related Schedules which stipulate how the duty will apply in relation to each Part. The duty comprises three requirements which apply where a disabled person is placed at a substantial disadvantage in comparison with non-disabled people. The first requirement covers changing the way things are done (such as changing a practice), the second covers making changes to the built environment (such as providing access to a building), and the third covers providing auxiliary aids and services (such as providing special computer software or providing a different service).
83. The section makes clear that where the first or third requirements involves the way in which information is provided, a reasonable step includes providing that information in an accessible format.
84. It sets out that under the second requirement, taking steps to avoid the disadvantage will include removing, altering or providing a reasonable means of avoiding the physical feature, where it would be reasonable to do so.
85. It also makes clear that, except where the Act states otherwise, it would never be reasonable for a person bound by the duty to pass on the costs of complying with it to an individual disabled person.

Background

86. This section replaces similar provisions in the Disability Discrimination Act 1995. However, the Act makes some changes to provide consistency across the reasonable adjustment provisions. It contains only one threshold for the reasonable adjustment duty – “substantial disadvantage” – in place of the two thresholds in the Disability Discrimination Act 1995. It also reflects current practice by applying the third requirement explicitly to employment. And it introduces consistency of language by referring to “provision, criterion or practice” rather than “practice, policy or procedure” used in some provisions in the Disability Discrimination Act 1995. It also introduces greater transparency with the express references to providing information in accessible formats and to not passing on the costs of an adjustment which are explained above.

Examples

- A utility company knows that significant numbers of its customers have a sight impairment and will have difficulty reading invoices and other customer communications in standard print, so must consider how to make its communications more accessible. As a result, it might provide communications in large print to customers who require this.
- A bank is obliged to consider reasonable adjustments for a newly recruited financial adviser who is a wheelchair user and who would have difficulty negotiating her way around the customer area. In consultation with the new adviser, the bank rearranges the layout of furniture in the customer area and installs a new desk. These changes result in the new adviser being able to work alongside her colleagues.
- The organiser of a large public conference knows that hearing-impaired delegates are likely to attend. She must therefore consider how to make the conference accessible to them. Having asked delegates what adjustments they need, she decides to engage BSL/English interpreters, have a palantypist and an induction loop to make sure that the hearing-impaired delegates are not substantially disadvantaged.