**1. Introduction**

The duty to provide reasonable adjustments originates in two concepts. Firstly, the social model of disability has played a key role in the development of disability rights[[1]](#footnote-1) and is central to reasonable adjustments. The social model defines disability in terms of being unnecessarily isolated and excluded from full participation in society by its barriers. It, therefore, places less emphasis on the impairments and more on the obstacles found in society[[2]](#footnote-2). Reasonable adjustment responds to this definition by aiming to remove such barriers allowing for equal participation in society. Secondly, this is achieved by advancement of asymmetrical substantive equality, giving preferential treatment to disabled people to limit the disadvantage they face[[3]](#footnote-3). It is recognised that formal equality is not sufficient. Formal equality is based on the liberal principle of treating everyone alike regardless of his or her differences. Equal treatment does not take the disadvantage of having impairments into account, which has the unintended effect of giving the non-disabled person a greater opportunity to fulfil her potential. In some circumstances, disabled people may need preferential treatment as a platform to achieving equality. This concept has been clearly explained by Baroness Hale in the following way:

*‘Treating men more favourably than women discriminates against women. Treating women more favourably than men discriminates against men. Pregnancy apart, the differences between the genders are generally regarded as irrelevant. The [Disability Discrimination Act 1995], however, does not regard the differences between disabled people and others as irrelevant. It does not expect each to be treated in the same way. It expects reasonable adjustments to be made to cater for the special needs of disabled people. It necessarily entails an element of more favourable treatment.’* [[4]](#footnote-4)

The duty to make reasonable adjustments in UK law is now contained in the Equality Act 2010. The Act, that is comprehensive and unitary across nine protected characteristics[[5]](#footnote-5), harmonises and tidies up the previous duties contained in pieces of equality legislation. Most changes regarding disability were made in the non-employment context[[6]](#footnote-6).

The Disability Discrimination Act 1995 introduced Reasonable Adjustments into United Kingdom law[[7]](#footnote-7). Reasonable adjustments also appear in many other jurisdictions albeit with various titles, the most common being ‘reasonable accommodations’. Reasonable adjustments in UK law place a duty on employers[[8]](#footnote-8), services and public functions[[9]](#footnote-9), premises[[10]](#footnote-10), education providers[[11]](#footnote-11) and associations[[12]](#footnote-12) to recognise that people with particular characteristics are disadvantaged by conventional requirements or systems[[13]](#footnote-13). Society is designed for non-disabled people and so fails to meet additional needs. The disadvantage comes as an inherent characteristic of which renders a person incapable of performing a function or job in the usual way, creating barriers that prevent the person from benefitting from an opportunity available to those without their characteristic[[14]](#footnote-14). The duty requires reasonable steps to be taken to remove the disadvantage by treating the disadvantaged differently to others[[15]](#footnote-15). The influence of substantive equality, therefore, becomes evident.

The duty to provide reasonable adjustments is also found at the supranational and international levels. European Union member states have been required to introduce reasonable accommodations in the contexts of employment and occupation into their legal systems by the Employment Equality Directive 2000[[16]](#footnote-16) since 2006. The UK already had such a provision and was influential in the spread of this approach across the European Union. The notion of reasonable adjustments can also implicitly be found throughout the Council of Europe’s European Convention of Human Rights (ECHR)[[17]](#footnote-17) and revised European Social Charter (ESC)[[18]](#footnote-18). Article 14 states that all ECHR rights must be enjoyed by all, free from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Although disability is not expressly identified, it is covered by ‘other status’[[19]](#footnote-19). For example, a violation of Article 3 ECHR, the prohibition of torture and inhuman or degrading treatment or punishment, was found for failing to make accommodations for the needs of a disabled prisoner as it lead to degrading treatment[[20]](#footnote-20). The revised ESC[[21]](#footnote-21) places emphasis on integrating and mainstreaming disabled people, with provisions that resemble the concepts of reasonable accommodation[[22]](#footnote-22). Internationally, the duty to provide reasonable accommodations is contained in Article 5 (2) of the United Nations Convention on the Rights Persons with Disabilities[[23]](#footnote-23). The recognition of the need to make accommodations at the national, supranational and international level illustrates the need for such measures and their importance. It is, however, argued that greater access and health issues and a fear of facing disadvantages when complaining, physical barriers to courts, indifferent judges and unsympathetic institutions make accessing these rights more difficult[[24]](#footnote-24).

This guide is written with the aim of giving you a comprehensive understanding of the law on reasonable adjustments in the UK.

**2. Reasonable Adjustments in the UK**

The duty to provide reasonable adjustments *‘applies to situations in which a disabled person is put at a substantial disadvantage in comparison to non-disabled persons by a provision, criteria or practice, a physical feature, or the absence of an auxiliary aid’[[25]](#footnote-25)*. There are two types of reasonable adjustments: reactive and anticipatory[[26]](#footnote-26).

**2a. Reactive Duty**

In the context of employment and let premises, the duty is reactive in nature as it is only triggered when the disabled person demonstrates a need for assistance. There is no duty to anticipate difficulties and possible barriers before receiving a request for reasonable adjustments by an interested disabled person.

The first requirement of the reactive duty is that there must be an ‘interested disabled person’[[27]](#footnote-27). For determining who should be offered employment, it is defined as ‘any disabled person who is, or has notified the employer that he may be, an applicant for that employment’. It is an applicant or employee after the application has been made. Relevant disabled persons in the context of associations are slightly different. In this context, relevant disabled persons are those who are, or are seeking to become or might wish to become, members; are associates; or are, or are likely to become, guests[[28]](#footnote-28). There will be no duty if the person fails to meet this requirement.

Secondly, the disabled person concerned must be placed at a ‘substantial disadvantage’ in comparison to a non-disabled person[[29]](#footnote-29). This regards the particular interested disabled person rather than disabled people in general[[30]](#footnote-30). To be ‘substantial’, the disadvantage must be ‘more than minor or trivial’[[31]](#footnote-31). There is confusion as what is termed the role of the comparator. This is the person in which the substantial disadvantage is compared. It is thought to be a non-disabled potential applicant, applicant or employee. This, however, does not cover situations where the employer is compelled to place the employee in a different role by the reasonable adjustment duty.

In employment, sick pay is an area of difficulty in regards to ‘substantial disadvantage’ concerning those already employed. Granting more sick pay to a disabled person as a means of making a reasonable adjustment will only happen in rare cases[[32]](#footnote-32), as the aim is to recognise the dignity of the disabled person and to make modifications that allow them to play a full part in the workplace[[33]](#footnote-33). It is not to treat them as objects of charity and to provide a ‘positive disincentive to return to work’[[34]](#footnote-34). Nottinghamshire County Council v Meikle[[35]](#footnote-35) is one such case, where a disabled employee’s sick pay was reduced after she was absent for one hundred days due to her employer’s failure to provide her with appropriate job-related adjustments. As it was the employer’s fault that she was absent, the court found in her favour. When concerning them, services and public functions can also adopt a reasonable alternative method of providing the service or exercising the function[[36]](#footnote-36).

*‘Being placed at a substantial disadvantage in relation to the exercise of a function means (a) if a benefit is or may be conferred in the exercise of the function, being placed at a substantial disadvantage in relation to the conferment of the benefit, or (b) if a person is or may be subjected to a detriment in the exercise of the function, suffering an unreasonably adverse experience when being subjected to the detriment.’[[37]](#footnote-37)*

In order to trigger the reasonable adjustment duty, the cause of the substantial disadvantage must be a practice/provision/criterion applied by A, a physical feature of premises occupied by A or the failure to provide an auxiliary aid[[38]](#footnote-38). For example, the duty is not triggered if somebody is made redundant for reasons unrelated to one’s disability[[39]](#footnote-39). Similarly, a prospective employer is not required to change job specifications where the disabled person lacks the required degree of expertise[[40]](#footnote-40) Where it is feared that a person may be medically unfit for the job, possible adjustments ought to be considered[[41]](#footnote-41). In regards to associations, Schedule 15 of the Equality Act 2010 states ‘*this requirement applies in relation to access to a benefit, facility or service; members or associates retaining their rights, or avoiding having them varied, or being admitted to membership or invited as a guest’[[42]](#footnote-42)*.

A physical feature is (a) a feature arising from the design or construction of a building, (b) a feature of an approach to, exit from or access to a building, (c) a fixture or fitting, or furniture, furnishings, materials, equipment or other chattels, in or on premises, or (d) any other physical element or quality[[43]](#footnote-43). It includes parking and toileting facilities and so does not have to be linked with job performance. To avoid substantial disadvantage A can (a) remove the physical feature in question, (b) alter it, or (c) provide a reasonable means of avoiding it[[44]](#footnote-44). The requirement for associations set out in schedule 15 applies here too.

The Act states that where the provision, criterion or practice, or the need for an auxiliary aid or service, relates to the provision of information, the steps, which it is reasonable to take, include steps to ensure that the information is provided in an accessible format.

Thirdly, A is only expected to make reasonable adjustments if she knew or ought to have known that the applicant or employee would be at a substantial disadvantage as a result of their provisions, criteria, practices or premises. The duty will not, therefore, arise if A does not know or does not have the means of knowing that the person is disabled[[45]](#footnote-45). If a disabled person states that they are not put at a disadvantage by their disability, the duty will not be triggered. For example, a claim made by a person with an artificial arm failed because he said that he was not having difficulties connected with his impairment when asked[[46]](#footnote-46). Similarly, in Ridout v TC Group[[47]](#footnote-47), the argument failed despite the applicant making the employer aware of her medically controlled photosensitive epilepsy prior to the interview and indicating that the bright, florescent lighting, during the interview, may place her at a substantial disadvantage. The employee took this as an explanation as to why she was carrying sunglasses and made no inquiries as to the implications of the condition. This ruling should be treated with suspicion as it appears as if the employer ought to have known that the lighting would have placed her at a substantial disadvantage by simply asking the applicant what could be done to limit the disadvantage. This would not have been unfairly burdensome and may well have been dealt with easily. It too undermines the purpose of the legislation[[48]](#footnote-48). An assessment to explore the needs and circumstances of the disabled person is ‘a necessary pre-condition’ to the fulfillment of the duty to provide reasonable adjustment[[49]](#footnote-49). Failure to assess would not constitute a breach but would jeopardise the legal position of the employer[[50]](#footnote-50) as it ‘may well result in a respondent failing to make adjustments which he ought to make’[[51]](#footnote-51).

Fourthly, the adjustment must be reasonable, an objective concept based on the determined facts and circumstances rather than what a particular employer subjectively believed reasonable[[52]](#footnote-52). If a possible adjustment is suggested or discovered, the burden to prove its unreasonableness passes to the defendant[[53]](#footnote-53). There are a number of factors that need to be considered when assessing the reasonableness of the adjustment and the DDA offered much guidance as to the factors[[54]](#footnote-54). Each factor is taken into consideration as the adjustment is judged in light of all the factors. The first is the extent to which the adjustment would remove the substantial disadvantage. Unlike the other factors, it is solely focused on the impact on the disabled person. The fact that it may lead to preferential treatment towards the disabled person is irrelevant[[55]](#footnote-55). The second factor is practicality[[56]](#footnote-56). This is linked to financial expense but is not wholly part of it. One example is the length of time it may take to alter an entrance may go beyond that during which the employer can conveniently wait for the employee’s services[[57]](#footnote-57). When considering the financial expense of an adjustment[[58]](#footnote-58), the expenditure that would otherwise be undertaken when employing any new person is considered[[59]](#footnote-59). The Access to Work[[60]](#footnote-60) scheme plays a significant role in the reasonableness of an adjustment due to the fact that the employer’s financial implications can be supported by public money. As a result, what was an unreasonable adjustment is now a viable one, allowing disabled people to work and so reducing the benefits that they may claim if out of work[[61]](#footnote-61). In regards to who bears the cost, it will never be the disabled person regardless of wealth[[62]](#footnote-62). In addition to the financial cost, disruption to the employer’s business is another burden that is considered[[63]](#footnote-63). There is a balance of equality and private and family life in relation to those who work in private homes[[64]](#footnote-64). Here, the court will consider the need for reasonable adjustments in balance with the impact on the lives of the people who live in the private homes.

In regards to reasonable alterations to physical features of premises there are two things to consider: the basic building regulations and the legal obstacles to making alterations. When a new building is constructed or an existing building is materially altered, regulations[[65]](#footnote-65) set basic access requirements. Additional adjustments can also be made to remove the disadvantage that would otherwise be experienced by the disabled employee[[66]](#footnote-66). It is unlikely that it will be reasonable for the employer to make additional adjustments if the premises are compliant with the regulations, which are more rigorous.[[67]](#footnote-67)

There are three legally imposed obstacles, which without overcoming, the employer will not be able to make the required physical alterations to carry out the reasonable adjustment duty. The first is that the employee is still required to obtain statutory regulated consent; for example, planning permission. The employer may be able to make interim adjustments until she obtains the necessary consent[[68]](#footnote-68). The second is that it will always be reasonable for the employee to get the permission of another person if they are legally obliged to do so[[69]](#footnote-69). Such cases include a charge, mortgage or restrictive covenant. The third, in relation to leases, is that it will be implied from the lease that the employer will be able to apply to the landlord for consent to the carrying out of disability-related physical alterations[[70]](#footnote-70). The landlord’s unreasonable withdrawal of consent is prohibited but he can attach reasonable conditions to it[[71]](#footnote-71).

The reactive duty to provide reasonable adjustment usually appears in the employment and education context. It is designed to meet the needs of a particular disabled person. This, therefore, requires a disabled person to inform the duty-bearer of their disability and needs. Without this person, there is no duty to provide reasonable adjustment. The anticipatory duty, however, compels the duty-bearer to foresee the needs of broad groups of disabled people.

**2b. Anticipatory Duty**

The anticipatory duty to provide reasonable adjustments relates to services and public functions[[72]](#footnote-72), education providers[[73]](#footnote-73) and associations[[74]](#footnote-74). It does not apply in the employment context, although it is argued that adjustments may be made through indirect discrimination[[75]](#footnote-75). The duty acts differently to reactive duties as duty-bearers are required to anticipate barriers that their operations present and take steps to reduce or remove the obstacles. It, therefore, acts in advance of the appearance of a disabled person. This, however, does not mean that the duty-bearers will not be required to make additional adjustments in reaction to the appearance of a disabled person where necessary[[76]](#footnote-76). The distinction between reactive and anticipatory duties to provide reasonable adjustments is not clear from the Act itself but is inferred given the use of the phrase ‘disabled persons’ as opposed to the singular ‘a disabled person’.

The first requirement of the anticipatory duty to provide reasonable adjustments is ‘disabled persons’ that are at a substantial disadvantage (as described above) when using the service, being involved in the association’s goings on, or the education provider or their use of it would be facilitated by the provision of an auxiliary aid or service. It is, therefore, the on-going responsibility of the duty-bearer to gauge how easily the service can be used by broad groups of disabled people, not individuals[[77]](#footnote-77). Wheelchair users are an example of such a board group of disabled people[[78]](#footnote-78). An individual is required, however, to bring a claim in discrimination, as the anticipatory duty is not enforceable in its own right[[79]](#footnote-79). The argument for such a claim lies with the fact that the person is at a substantial disadvantage due to the duty-bearer’s failure to comply with the duty; firstly, for ‘disabled persons’ and secondly for the individual. In ascertaining a broad group, the judges should ‘rely on their own appraisal of the situation’[[80]](#footnote-80), taking expert evidence into account where necessary[[81]](#footnote-81), as opposed to statistics. Anna Lawson[[82]](#footnote-82) welcomes this approach as it reinforces the group aspect of the anticipatory duty and its role in breaking down structural barriers[[83]](#footnote-83). Lawson praises avoiding complex and expensive collection and analysis of statistics by relying on the judges’ assessment in a particular case[[84]](#footnote-84).

There is also a reactive element to the anticipatory duty where the duty-bearer will be required to respond to the particular needs of one disabled person when they become aware of that person and the specific difficulty faced by the person. This is more likely to occur in the context of education where the relationship is ‘long-lasting and close’[[85]](#footnote-85). Despite this, there is no requirement of knowledge, with the exception for education providers. This is likely to be due to the fact that there is a closer relationship between the provider and the disabled person and they will be expected to meet more specific needs[[86]](#footnote-86). This is similar to the requirement of knowledge in the employment context but education providers will also have to create an open, supportive and welcoming atmosphere that entices disabled persons and encourages disclosure of impairments.

Reasonableness applies here and is as previously described. It is, however, important to consider that the purpose here is not to ensure some access for disabled persons but to provide the service as closely as the general public would enjoy it[[87]](#footnote-87). It is not expected that steps be taken that fundamentally alter the nature of the service or A’s profession, trade or business[[88]](#footnote-88). In relation to education, the code of practice for schools provides a list of factors[[89]](#footnote-89). It include the need to maintain academic, musical, sporting and other standards; the financial resources available to the responsible body; the cost of taking a particular step; the extent to which it is practicable to take a particular step; the extent to which aids and services will be provided to disabled pupils at the school under Part IV of the Education Act 1996 or Sections 60-65G of the Education (Scotland) Act 1980; health and safety requirements; the interests of other pupils and persons who may be admitted to the school as pupils. The code of practice for post-16 education omits the needs for maintenance of standards. Associations, similarly, will not be required to take steps that alter the nature of the benefit, facility or service concerned or the nature of the association.[[90]](#footnote-90) Those exercising public functions will not be required to take steps that are outside their powers[[91]](#footnote-91).

When considering the reasonableness of physical alterations, education providers are in the same position as employers as described in the reactive duty above. Service providers are exempt from having to make physical alterations if those features comply with the regulations set out in the Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations 2001[[92]](#footnote-92) and ten years have lapsed since the installation of the feature or completion of the work. This is due to the fact that the regulations set out the access requirements. They still, however, need to provide a reasonable means of avoiding the feature or provide the service in another way[[93]](#footnote-93). In relation to third party consent, it is the same as the reactive duty described above. Reasonable adjustment to physical features will not be required of the homeowner where association meetings are held at a member’s home.[[94]](#footnote-94)

A defence of material and substantial justification applies to providers of post-16 education who have failed to take reasonable steps. ‘Material’ requires a ‘reasonably strong connection’ between the reasons for the failure to take reasonable steps and the facts of the particular case[[95]](#footnote-95). The meaning of ‘substantial’ remains ‘more than trivial or minor’[[96]](#footnote-96). As it is such a low standard, the courts have diminished it[[97]](#footnote-97) and so it is unlikely to be used. There is a specific belief justification defence for service providers, associations and public authorities. In order to satisfy it, they must show that they believed that one or more specified conditions were satisfied and it was reasonable for them to hold that opinion. Two of the specified conditions apply to service providers, also to achieve and so is legit regulations set out the access requirements. with the , the duty will not be triggered. a presalso to achieve and so is legit regulations set out the access requirements. with the , the duty will not be triggered. a prespublic authorities and associations. They state that the alleged discriminator must have believed one of two things. Either that refraining from taking the reasonable steps in order to protect the health or safety of all persons or failing to take reasonable steps because the disabled person is incapable of entering into and enforceable agreement, or of giving informed consent. One other specified condition applies to public authorities that fail to provide reasonable adjustments. It justifies the failure if the public authority can show that it reasonably believed the refusal to provide reasonable adjustments was necessary to protect the rights and freedoms of others. The first of two of its elements is a demonstration of the belief in the existence one or more specified conditions (subjective). The second is a demonstration that the belief was reasonably held.

Public authorities have alsoalso to achieve and so is legit regulations set out the access requirements. with the , the duty will not be triggered. a pres the objective justification defence to rely on where showing that it was a proportionate means of meeting legitimate aim will justify failing to provide reasonable adjustments. In order to rely on it, it must be demonstrated that there is a pressing policy need supporting the aim that the treatment is designed to achieve and so is legitimate, the authority action is related to achieving that aim and a solution with less detrimental impact on the rights of disabled people could not be found.

If all the requirements can be met and a defence cannot be used, the failure to make reasonable adjustment is unlawful discrimination[[98]](#footnote-98). The anticipatory duty does force duty-bearers to think about broad needs of disabled people in advance of the presence of a disabled individual. It, however, does not meet the particular needs of one disabled person. Criticisms aside, the duty to provide reasonable adjustment does force duty-bearers to consider the needs of disabled people, breaking down many barriers in society.

1. Fletcher, A and O’Brien, N (2008), *Disability Rights Commission: From Civil Rights to Social Rights,* Journal of Law and Society Volume 35, Number 4, December 2008 pp520-550; [↑](#footnote-ref-1)
2. UPIAS, Fundamental Principles of Disability (1976) 3. For a fuller account of the social model and criticisms of it, see Fletcher and O’Brien and T. Shakespeare, (2006), *Disability Rights and Wrongs*, Routledge; [↑](#footnote-ref-2)
3. Fredman, S (2011), *Discrimination Law*, Oxford University Press. [↑](#footnote-ref-3)
4. Archibald v Fife Council [2004] S.C. (H.L.) 117 at 47; [↑](#footnote-ref-4)
5. Hepple, B (2011) Equality: the new legal framework, Oxford: Hart Publishing. [↑](#footnote-ref-5)
6. Lawson, A (2011), *Disability and employment in the Equality Act 2010: opportunities seized, lost and generated*, Industrial Law Journal 40 (4): 359-383. [↑](#footnote-ref-6)
7. S6 Disability Discrimination Act 1995; [↑](#footnote-ref-7)
8. S83(1) Equality Act 2010; [↑](#footnote-ref-8)
9. S31(1) Equality Act 2010; [↑](#footnote-ref-9)
10. S38(1) Equality Act 2010; [↑](#footnote-ref-10)
11. S89(1) Equality Act 2010; [↑](#footnote-ref-11)
12. S107(1) Equality Act 2010; [↑](#footnote-ref-12)
13. *Lawson, A. (2008). Disability and Equality Law in Britain: The Role of Reasonable Adjustments. Oxford: Hart Publishing*, p2; [↑](#footnote-ref-13)
14. L. Waddington, *Reasonable Accomodation* in D. Schiek, L. Waddington and M. Bell (eds), Cases, Materials and Texts on National, Supranational and International Non-Discrimination Law (Oxford, Hart Publishing, 2007) 631. [↑](#footnote-ref-14)
15. Lawson, A. (2008). *Disability and Equality Law in Britain: The Role of Reasonable Adjustments. Oxford: Hart Publishing*, p3 [↑](#footnote-ref-15)
16. Directive 2000/78/EC; [↑](#footnote-ref-16)
17. Council of Europe (1950), *Convention for the Protection of Human Rights and Fundamental Freedoms* (European Convention on Human Rights, as amended) [↑](#footnote-ref-17)
18. Council of Europe, *European Social Charter (Revised)*, 3 May 1996, ETS 163 [↑](#footnote-ref-18)
19. Botta v Italy Series A no.66 (1998) 26 EHHR 241, for example; [↑](#footnote-ref-19)
20. Price v UK App No 33394/96 (2001) 34 EHRR 1285. For greater explanation and analysis see O. De Shutter, *‘Reasonable Accomodation and Positive Obligations in the European Convention on Human Rights’* in Disability Rights in Europe: From Theory to Practice, A.Lawson ad C.Gooding (eds.), 2005 (Hart); [↑](#footnote-ref-20)
21. 1996 [↑](#footnote-ref-21)
22. Lawson, A. (2008). *Disability and Equality Law in Britain: The Role of Reasonable Adjustments*. Oxford: Hart Publishing, p50 [↑](#footnote-ref-22)
23. Parker and Clements, *The UN Convention on the Rights of Persons with Disabilities: a new right to independent living?* EHRLR 508 (2008); For more information on the international context, see De Shutter and Parker and Clements; [↑](#footnote-ref-23)
24. L. Clements and J. Reid, *The Dog that Didn’t Bark: The Issue of Access to Rights under the European Convention of Human Rights by Disabled People,* in Disability Rights in Europe: From Theory to Practice, A.Lawson ad C.Gooding (eds.), 2005 (Hart); [↑](#footnote-ref-24)
25. S20 Equality Act 2010 [↑](#footnote-ref-25)
26. Fredman, S (2011), *Discrimination Law* Oxford University Press p 214 [↑](#footnote-ref-26)
27. Sched 8, s 2(2)(c) Equality Act 2010. [↑](#footnote-ref-27)
28. Schedule 15 Equality Act 2010; [↑](#footnote-ref-28)
29. S20 Equality Act 2010; [↑](#footnote-ref-29)
30. Lincolnshire Police v Weaver [2008] UKEAT 0622.07.1903 [54] (Elias P); [↑](#footnote-ref-30)
31. DRC, DDA 1995 Code of Practice: Employment and Occupation; affirmed in Cave v Goodwin [2001] EWCA Civ 391; [↑](#footnote-ref-31)
32. O’Hanlon v Commissioners of HM Revenue and Customs [2006] IRLR 840 (EAT) [56]. Approved at [2007] EWCA Civ 283 [86]; [↑](#footnote-ref-32)
33. Ibid at [69]; [↑](#footnote-ref-33)
34. Ibid; [↑](#footnote-ref-34)
35. [2004] IRLR 703 (CA). [↑](#footnote-ref-35)
36. Sch. 2 Equality Act 2010; [↑](#footnote-ref-36)
37. Ibid subsection 5; [↑](#footnote-ref-37)
38. S20 Equality Act 2010; [↑](#footnote-ref-38)
39. See NTL Group Ltd v Difolco [2006] EWCA Civ 1508; [↑](#footnote-ref-39)
40. Bruce v Charmerlain [2004] EWCA Civ 1047; [↑](#footnote-ref-40)
41. Paul v National Probation Service [2004] IRLR 190 (EAT); [↑](#footnote-ref-41)
42. EHRC, Equality Act 2010: DRAFT Code of Practice – Services, Public Functions and Associations Code; [↑](#footnote-ref-42)
43. S20(10) Equality Act 2010. [↑](#footnote-ref-43)
44. S20(2) Equality Act 2010; [↑](#footnote-ref-44)
45. See Gallaghan v Glasgow City Council [2001] IRLR 724 for example [↑](#footnote-ref-45)
46. Davies v Toys ‘R’ Us (1998) ET/1900286/98 [↑](#footnote-ref-46)
47. [1998] IRLR 628; [↑](#footnote-ref-47)
48. Lawson, A. (2008). *Disability and Equality Law in Britain: The Role of Reasonable Adjustments. Oxford: Hart Publishing*, p78; [↑](#footnote-ref-48)
49. Mid Staffordshire NHS Trust v Cambridge [2003] IRLR 566 (EAT) at [17]. [↑](#footnote-ref-49)
50. Tarbuck v Sainsbury’s supermarkets [2006] IRLR 664 (EAT) at [77]; [↑](#footnote-ref-50)
51. Project Management Institute v Latif [2007] IRLR 579 (EAT) (Elias P) at [11]; [↑](#footnote-ref-51)
52. See Collins v Royal National Theatre IRLR 395 (CA) at [20] per Sedley LJ; [↑](#footnote-ref-52)
53. Latif at [53] – [57]; [↑](#footnote-ref-53)
54. Lawson, A. (2008). Disability and Equality Law in Britain: The Role of Reasonable Adjustments. Oxford: Hart Publishing, p82; [↑](#footnote-ref-54)
55. Archibald above; [↑](#footnote-ref-55)
56. S18B(1)(b) Disability Discrimination Act 1995; [↑](#footnote-ref-56)
57. DRC, *DDA Code of Practice: Employment and Occupation* at para 5.30; [↑](#footnote-ref-57)
58. Para C of S18B(1)(b) Disability Discrimination Act 1995 [↑](#footnote-ref-58)
59. DDA Code of Practice: Employment and Occupation at para 5.31-4; [↑](#footnote-ref-59)
60. See <https://www.gov.uk/access-to-work> for more information. [↑](#footnote-ref-60)
61. S.A. Moss and DA Malin *Public Funding for Reasonable Accommodations: Rational Solution to Rational Discrimination and the Disabilities of the ADA’*(1998) 33 Harvard Civil Rights and Civil Liberties Law Review 197. [↑](#footnote-ref-61)
62. DDA Code of Practice [↑](#footnote-ref-62)
63. Para D of S18B(1)(b) DDA [↑](#footnote-ref-63)
64. Lawson, A. (2008). Disability and Equality Law in Britain: The Role of Reasonable Adjustments. Oxford: Hart Publishing, p87 [↑](#footnote-ref-64)
65. In England and Wales, the Building Regulations 2000 (SI 2000/2531) Sch. 1 part M; in Scotland, Building (Scotland) Regulations 2004; [↑](#footnote-ref-65)
66. DDA CoP para 12.7 & 12.8 [↑](#footnote-ref-66)
67. *‘Design of Buildings and their Approaches to Meet the Needs of Disabled People’,* British Standard 8300:20001 – Code of Practice; [↑](#footnote-ref-67)
68. DDA Code of Practice [↑](#footnote-ref-68)
69. S18B (3) [↑](#footnote-ref-69)
70. S18A DDA [↑](#footnote-ref-70)
71. S18A (2)(c) and (d) [↑](#footnote-ref-71)
72. S31(1) Equality Act 2010 [↑](#footnote-ref-72)
73. S89(1) Equality Act 2010 [↑](#footnote-ref-73)
74. S107(1) Equality Act 2010 [↑](#footnote-ref-74)
75. See Lawson, A (2011), *‘Disability and employment in the Equality Act 2010: opportunities seized, lost and generated’*, Industrial Law Journal 40 (4): 359-383.; [↑](#footnote-ref-75)
76. See Department of Education and Employment, *‘DDA 1995 Code of Practice: Rights of Access – Services to the Public, Public Authority Functions, Private Clubs and Premises’* (London, Stationery Office, 1999); [↑](#footnote-ref-76)
77. Roads v Central Trains [2004] EWCA Civ 1540 per Sedley LJ at [11]; [↑](#footnote-ref-77)
78. Ibid at [26]. [↑](#footnote-ref-78)
79. Ibid [↑](#footnote-ref-79)
80. Lawson, A. (2008). *Disability and Equality Law in Britain: The Role of Reasonable Adjustments*. Oxford: Hart Publishing.p98 [↑](#footnote-ref-80)
81. No.77 [↑](#footnote-ref-81)
82. A leading academic on reasonable adjustments from the University of Leeds; [↑](#footnote-ref-82)
83. No.79 [↑](#footnote-ref-83)
84. Ibid [↑](#footnote-ref-84)
85. Ibid [↑](#footnote-ref-85)
86. Lawson, A. (2008). *Disability and Equality Law in Britain: The Role of Reasonable Adjustments.* Oxford: Hart Publishing, p109 [↑](#footnote-ref-86)
87. DRC, *‘DDA 1995 Code of Practice: Rights of Access – Services to the Public, Public Authority Functions, Private Clubs and Premises’* para 6.22; [↑](#footnote-ref-87)
88. Sched 2(5)(a) and (b) Equality Act 2010 [↑](#footnote-ref-88)
89. DRC, *DDA Code of Practice for School*, Part 4 para 6.29 [↑](#footnote-ref-89)
90. S.15(6) Equality Act 2010 [↑](#footnote-ref-90)
91. Schedule 15, para (8) Equality Act 2010 [↑](#footnote-ref-91)
92. (SI No. 2001/3253), Document M – Access to and Use of Buildings. In Scotland, the Technical Standards. [↑](#footnote-ref-92)
93. Department of Education and Employment, *‘DDA 1995 Code of Practice: Rights of Access – Services to the Public, Public Authority Functions, Private Clubs and Premises’* (London, Stationery Office, 1999) Appendix para 23; [↑](#footnote-ref-93)
94. Schedule 15, para (7) Equality Act 2010 [↑](#footnote-ref-94)
95. Collins v Royal National Theatre Board Ltd [2004] EWCA Civ 144 considering Jones v The Post Office [2001] EWCA 558, a case on indirect discrimination that has the same defence [↑](#footnote-ref-95)
96. Jones above at [21] [↑](#footnote-ref-96)
97. Collins above [↑](#footnote-ref-97)
98. S21 Equality Act 2010. [↑](#footnote-ref-98)