



Reasonable Adjustments

Under section 29(1) of the Equality Act 2010 a service provider is a person concerned with the provision of a service to the public or a section of the public (for payment or not). They can be an individual, a business or a public body.

“The duty to make reasonable adjustments requires service providers to take positive steps to ensure that disabled people can access services. It requires service providers to anticipate the needs of potential disabled customers for reasonable adjustments.” (Paragraph 7.3 EHRC Services, public functions and associations Statutory Code of Practice).

The duty to make reasonable adjustments comprises three requirements. For service providers and those exercising public functions, these requirements are:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage compared with those who are not disabled, to take reasonable steps to avoid that disadvantage.
- Where a physical feature puts disabled people at a substantial disadvantage compared with people who are not disabled to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function.,
- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage compared with people who are not disabled, to provide that auxiliary aid.

(Paragraph 7.7 EHRC Services, public functions and associations Statutory Code of Practice).

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Under schedule 2 paragraph 2(7) Equality Act 2010, a service provider will not be required to take steps which would fundamentally alter the nature of the service or the nature of their trade or profession.

The duty for service providers and public functions to provide reasonable adjustments is owed to disabled people generally. Thus the duty applies regardless of whether they know that a particular person is disabled. The duty is anticipatory as it requires consideration of and action in relation to the barriers which may prevent people with one or more types of disability from using the service. Therefore service providers should anticipate the requirements and possible adjustments they may make for them. Failure to do so could create additional expenses or make it too late to comply with the duty which in its self may not be a defence to a claim. (Paragraph 7.19 – 7.22 EHRC).

Service providers are not expected to anticipate the needs of every individual who may use their service, but are required to think about and take reasonable steps to overcome barriers that may hinder people with different kinds of disability. Once a service provider has become aware of the requirements of a particular disabled person who uses or seeks to use its services, it might be reasonable for the service provider to take a particular step to meet their needs. (Paragraph 7.24 – 7.26 EHRC).

The duty to make reasonable adjustments is a continuing duty. Service providers should keep the duty under regular review as a step which might have once been unreasonable might become reasonable. (Paragraph 7.27 – 7.28 EHRC).

The duty places a responsibility on service providers to take such steps as is reasonable. What is reasonable depends on all the circumstances of the case and varies according to:

- The type of service being provided
- The nature of the service provider and their size and resources
- The effect of the disability on the individual

Some factors to be taken in to account include whether it overcomes the substantial disadvantage the disabled person faces in accessing the service, the cost to the service provider and the disruption of making the adjustment. The question of reasonableness is an objective one for the courts to determine. (Paragraph 7.29 – 7.39 EHRC).

Failure to comply with the duty to make reasonable adjustments amounts to unlawful discrimination and a disabled person can make a claim against a service provider. (Paragraph 7.41 EHRC)

To read the Full Code of Practice follow the link

<http://www.equalityhumanrights.com/sites/default/files/documents/EqualityAct/servicescode.pdf>

