**![[image depicting] UCU - University and College Union logo]()**

**Reasonable Adjustments**

**What is a reasonable adjustment?**

A reasonable adjustment is an alteration that an employer could make that would enable a disabled person to continue to carry out their duties without being at a disadvantage compared to others. Under the Equality Act 2010, there is a **legal duty** on employers to make these reasonable adjustments for disabled employees.

**The social model of disability**

UCU supports the ‘social model’ of disability. Legislation usually supports the ‘medical model’. This states that a disability is defined by an individual’s medical condition that affects their ability to carry out tasks, and that the way to resolve a disability is to treat or cure the condition in order to bring about equal access. However, the ‘social model’ states that it is the interaction of somebody’s disability with the barriers that society puts in place that prevent or hinder people’s access to the built environment, media, transport or education.

The law around reasonable adjustments is designed to make employers consider that a disabled person is usually made disabled by the environment they are placed in. They have a duty to provide conditions that all employees can carry out their work in.

**The Law**

A reasonable adjustment may include ‘provisions, criteria and practices’, ‘physical features’ and ‘provision of auxiliary aids’.

**Types of reasonable adjustment**

The code of practice for (employment) for the Equality Act gives the following examples of reasonable adjustments:

* Making adjustments to premises
* Allocating some of the disabled person’s duties to another person
* Transferring them to fill an existing vacancy
* Altering their working hours
* Allowing absence for rehabilitation, absence or treatment
* Arranging or giving extra training
* Acquiring or modifying equipment
* Modifying instructions or reference manuals
* Modifying procedures for testing or assessment
* Providing a reader or interpreter
* Providing supervision

The term “reasonable” whether it is effective whether it is practical

what it costs

the resources of the organisation

the availability of financial support (for

example, the Access to Work scheme).

For example, a physically disabled person may ask for the installation of a ramp at the entrance to their institution, or somebody with a hearing impairment may ask for a hearing loop for their classroom.

Failure to make a reasonable adjustment is a breach of the law. The criteria by which the employer can decide whether an adjustment is “reasonable” are whether it is effective, whether it is practical, what costs are, the resources of the organisation and the availability of financial support for the adjustment. If the adjustment is reasonable under these criteria and the employer does not make it, it is breaking the law, and you may be able to take them to an employment tribunal. There have been some notable examples of this.

**Case study 1.**

**Burke v (1) Clinton Cards plc (2) Walker (2010)**

An employer that failed to make reasonable adjustments for an employee who had cancer was ordered to pay more than £100,000 in compensation.

When the claimant, Mrs Burke, an area sales manager, was diagnosed with breast cancer, adjustments were made by reducing the number of stores for which she was responsible. However, when a new regional manager, Mr John Walker, took over, he increased her workload and was critical of her performance on a number of occasions, paying no regard to the effect of a heavier workload on her health, and showing no interest in the effect on her work of the treatment for cancer that she was undergoing. She resigned and claimed unfair constructive dismissal and disability discrimination.

On top of the compensation, the tribunal noted that had the Equality Act been in effect at the time (it became law in the interim period) it would have made a number of recommendations relating to:

* the method of recording meetings with employees - "the respondent's approach is lamentable, particularly where a disabled employee is to change line managers";
* the training of individuals - commenting that the training was "inadequate", it would have recommended "significant equal opportunities training for all senior managers"; and
* training in respect of disability discrimination - for a company of its size and geographical spread, it would have expected it to be doing more than "paying ‘lip service' to equal opportunities policy".

**Case Study 2**

**Chief Constable of South Yorkshire Police v Jelic (2010)**

The EAT upheld an employment tribunal finding that it would have been a reasonable adjustment to swap the job of a serving police officer with chronic anxiety syndrome with that of another police constable.

The claimant was a police constable who developed chronic anxiety syndrome. As a result, he had periods of sick leave for stress-related illness. When he returned to work, he was assigned a desk job. A series of reports from the force’s occupational health adviser said he was not fit to return to front-line duties. Eventually, it was decided to medically retire him because he was carrying out the duties of a staff operator and was permanently disabled from performing the full duties of a police officer.

An employment tribunal upheld a disability discrimination claim, finding that in the particular circumstances of the case it would have been reasonable to swap the jobs being undertaken by the claimant and another police constable. The tribunal identified a particular constable whose job was suitable and suggested that,
if necessary, in a service accustomed to discipline, the other police officer could be required to switch jobs.

**Case study 3**

**Cottrell v North Tyneside Disability Forum (2010)**

An employment tribunal held that an employer failed to make reasonable adjustments by not taking steps to hold a meeting face to face with the claimant, allowing her to express concerns that, as a deaf person, she was not able to raise satisfactorily in any other way – for example, through a phone call.

Mrs Cottrell was employed under a contract to personally carry out work for the respondent, as a reflexologist/complementary health therapist. She is deaf, and needs a lipspeaker – someone professionally trained to be easy to lipread – for professional and business situations. There was a series of emails between Mrs Cottrell and the chief officer of the respondent charity, Ms Adams. Mrs Cottrell had raised some concerns by email as she was no longer getting the support she had been used to. She several times requested a face-to-face meeting, with a lipspeaker present, offering dates when she was available. However, no meeting took place and five months later she was informed that her services would no longer be required.

The tribunal held that the respondent had not made reasonable adjustments for the claimant, as it had not taken steps to set up a meeting, despite the claimant providing dates. It found that a meeting with a lipspeaker would have allowed the claimant to raise her concerns in a similar manner to a non-disabled person. Arranging such a meeting, it said, was practicable as there was little financial cost and it would not disrupt the respondent’s activities. It therefore held that the respondent had failed to make reasonable adjustments, adding: “It was a charitable organisation whose object was to ensure the rights of disabled persons and improve their quality of life. It had the required knowledge about the claimant as a disabled person.”

**Who pays?**

The law forbids the employer from making a disabled worker pay for any of these adjustments, and financial assistance may be available from the Government for the employer under access to work funding if the disabled person qualifies for it (see links to access to work funding in ‘Links’).

**Fear discrimination?**

If you fear that having disclosed your disability and asked for a reasonable adjustment you may be discriminated against by your employer or colleagues, the Equality Act protects you from disability discrimination. For example, disability must not be a reason not to promote a worker if they are the best person for the job with the adjustments in place.

**Disability leave**

A person with a disability should have their disability-related leave counted as a distinct and separate thing, and it can be argued for as a reasonable adjustment. You can access UCU’s disability leave briefing in the links section.

* **The social model of disability states that it is the environment that society places a person in that disables them, not the individual impairment.**
* **Most reasonable adjustments cost little or nothing to implement**
* **It is a disabled person’s right to have an adjustment made and not a favour from the employer**
* **Being open about your disability helps to create a culture in which other disabled people are not afraid to be open.**
* **Changes that are made are often likely to be a ones that benefit the entire workforce**

**Getting support**

If you are thinking about asking for a reasonable adjustment from your employer and you would like help from UCU, get in touch with your local rep.

**UCU - Getting support**

[**http://www.ucu.org.uk/index.cfm?articleid=1945**](http://www.ucu.org.uk/index.cfm?articleid=1945)

**Regional office finder**

[**http://www.ucu.org.uk/index.cfm?articleid=3771**](http://www.ucu.org.uk/index.cfm?articleid=3771)

**Links**

**EHRC – the duty to make reasonable adjustments for disabled people**

[**http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/the-duty-to-make-reasonable-adjustments-for-disabled-people/**](http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/the-duty-to-make-reasonable-adjustments-for-disabled-people/)

**ECU: Managing reasonable adjustments in higher education**

[**http://www.ecu.ac.uk/publications/managing-reasonable-adjustments-in-higher-education**](http://www.ecu.ac.uk/publications/managing-reasonable-adjustments-in-higher-education)

**TUC Disabled worker guide**

[**http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CFQQFjAA&url=http%3A%2F%2Fwww.tuc.org.uk%2Fextras%2Fdisabilityandwork.pdf&ei=GxcAUIHtGI7BswaYwsyJBg&usg=AFQjCNHGF6Tws0ugBY6gBatKR6DSMhp6Uw**](http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CFQQFjAA&url=http%3A%2F%2Fwww.tuc.org.uk%2Fextras%2Fdisabilityandwork.pdf&ei=GxcAUIHtGI7BswaYwsyJBg&usg=AFQjCNHGF6Tws0ugBY6gBatKR6DSMhp6Uw)

**ACAS offer an** [**equality and diversity advisory service**](http://www.acas.org.uk/index.aspx?articleid=2034) **to help employers assess what constitutes a reasonable adjustment.**

[**http://www.acas.org.uk/index.aspx?articleid=3496**](http://www.acas.org.uk/index.aspx?articleid=3496)

**Access to work funding**

[**http://www.direct.gov.uk/en/disabledpeople/employmentsupport/workschemesandprogrammes/dg\_4000347**](http://www.direct.gov.uk/en/disabledpeople/employmentsupport/workschemesandprogrammes/dg_4000347)

**UCU’s disability related leave briefing**

[**http://www.ucu.org.uk/media/pdf/m/l/Disability\_Leave.pdf**](http://www.ucu.org.uk/media/pdf/m/l/Disability_Leave.pdf)

**UCU Guide – disclosing a disability**

[**http://www.ucu.org.uk/media/pdf/m/n/Disclosing\_a\_disability.pdf**](http://www.ucu.org.uk/media/pdf/m/n/Disclosing_a_disability.pdf)