



DCLG PCS REASONABLE ADJUSTMENT SUMMARY

This is a summary sheet accompanying the main PCS DCLG reasonable adjustment (RA) guidance. For more information, please read the full document or email the **PCS DCLG mailbox**.

Overview of the Equality Act

On 1 October 2010 the Equality Act became law incorporating much of the Disability Discrimination Act 1995 with small changes included to provide greater protection to disabled people.

Requirement to make Reasonable Adjustments (EqA – s20 – s21)

This duty is at the heart of disability discrimination law. Where any workplace practice or feature puts a disabled employee at a disadvantage, the employer must make all adjustments which are reasonable, to remove that disadvantage.

Who is covered Under the EqA?

To gain the protection of the EqA, an employee must prove s/he meets the legal definition of disability in the Act. This covers visual disabilities such as using a wheelchair and unseen, temporary or fluctuating disabilities such as anxiety, depression or diabetes.

However, the question is not whether the named disability is covered by the EqA. It is whether the particular employee with the disability is covered. This will depend on the nature, severity and duration of the disability.

The Legal Definition

In order to qualify under the act, the employee must show they fulfill the following criteria;

1. That there is a physical or mental impairment.
2. The impairment has an effect on the employee's ability to carry out normal day-to-day activities and is substantial. A comparison should be made to the way the employee carries out the activities with how s/he would carry them out if s/he was not impaired.
3. The substantial effect is long-term. This must be 12 months or for the rest of the employee's life, if less than 12 months.

The Duty on an Employer To Make Reasonable Adjustments

If an employee meets the legal definition of disabled within the act, an employer must make all adjustments that are reasonable to remove any disadvantage. Provided an adjustment would be reasonable, an employer has no defence of justification for not carrying it out.

The Burden of Proof

When an employee requests reasonable adjustments, s/he must indicate what kind of reasonable adjustments s/he says ought to have been made. The burden of proof then shifts to the employer to prove that s/he did not fail in his/her duty to make that adjustment.