

# **REASONABLE ADJUSTMENTS GUIDANCE**

**For staff working with public and  
professional court users  
(based on the Disability Discrimination Act)**

## **HMCS Equality and Diversity Statement**

**HMCS serves a diverse society. Our customers include men and women; people of different races, cultures and religions; people with and without disabilities; young people and older people; straight and gay people; people with and without caring responsibilities; and people with many other differences. We recognise, respect and value that diversity, and will strive in all we do to serve the interests of people from all sections of society.**

**We will also strive to become an organisation that reflects more fully the diversity of our customers and truly values the contribution that staff from all sections of society can make to our work.**

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## INTRODUCTION

Our core goal at Her Majesty's Courts Service (HMCS) is to make sure that all citizens, regardless of their differing needs, have access to justice. Making reasonable adjustments for people with disabilities is a key part of achieving this goal. This guidance has been developed to help HMCS staff make those adjustments.

Public and professional court users (referred to as 'court users' throughout the rest of this document)<sup>1</sup> are not just restricted to those attending court hearings as claimants, defendants or witnesses. We have a responsibility to make reasonable adjustments for all court users, including those lending support, carers and members of the public, including magistrates, jurors and observers.

Obtaining the views of disabled court users will help us with this. People with disabilities know best what difficulties they face in trying to use our services. Listening carefully and responding to what disabled people really want will help us find the best way to meet their needs and expectations.

In the following pages you will find information about:

- the Disability Discrimination Act (DDA) and what it requires us to do;
- what 'reasonable adjustment' means, who decides and who pays for any adjustments made;
- our duty to anticipate requirements;
- when we can refuse to make adjustments and the process for doing so; and
- what we mean by discrimination and harassment.

The focus of this guidance is on reasonable adjustments that can be made by individual members of staff. The following pages include many examples of reasonable adjustments, but the list is not exhaustive.

Factsheets<sup>2</sup> complementing this guidance provide information about a range of disabilities and tips on communicating with disabled people.

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<sup>1</sup> Public and professional court users are also referred to as 'customers' in other HMCS documents.

<sup>2</sup> Available at <http://libra.lcd.gsi.gov.uk/centre/performance/customerservices/16606.htm>.

## THE DISABILITY DISCRIMINATION ACT

The DDA makes it unlawful to discriminate against disabled people in employment, or in the provision of goods, facilities, services or premises:

- by refusing to provide (or deliberately not providing) any service that we provide (or are prepared to provide) to members of the public;
- in the standard of service we provide or the manner in which we provide it; and/or
- in the terms on which we provide our service.

The DDA gives protection from discrimination to a person who has a 'disability' within the meaning of Section 1 of the DDA. This includes:

- physical or mental impairments, including sensory and communication impairments;
- hidden impairments, such as mental health problems or learning difficulties; and
- conditions such as diabetes and epilepsy.

A disabled person is someone whose impairment(s) affects their ability to carry out normal day-to-day activities. That impairment must be:

- substantial (that is, more than minor or trivial);
- adverse; and
- long term (that is, lasting or likely to last for at least a year, or for the rest of their life).

The DDA also specifically protects anyone with cancer, HIV or multiple sclerosis from the point of diagnosis. And it covers people who have had a disability under its terms in the past – even if they no longer have that disability.

The DDA sets out two forms of discrimination against a disabled person.

- One form occurs when a service provider treats a disabled person less favourably (for a reason relating to their disability) than it treats (or would treat) others to whom that reason does not (or would not) apply, and cannot show that the treatment is justified.
- The other form of discrimination occurs when a service provider fails to comply with a duty to make reasonable adjustments in relation to the disabled person in specified circumstances, and cannot show that the failure is justified.

## WHAT IS A REASONABLE ADJUSTMENT, AND WHO DECIDES?

The duty to make reasonable adjustments is an important part of the DDA and requires HMCS staff to take positive steps to ensure that disabled people can access our services. This goes beyond simply avoiding treating disabled people less favourably for any reason relating to their disability.

The duty to make reasonable adjustments comprises a series of duties falling into three areas:

- changing practices, policies and procedures;
- providing auxiliary aids and services; and
- overcoming a physical feature by:
  - removing the feature;
  - altering it;
  - avoiding it; or
  - providing the service by alternative means.

HMCS must decide what is reasonable, and you will be expected to use your own judgement. In most cases, requests for adjustments are likely to be reasonable, but consult your court manager if you are in any doubt. The following questions can be used as a guide:

- Would the adjustment resolve the difficulty?
- Is it practicable to provide the adjustment?
- Is there an alternative adjustment that would be better, easier to provide or less expensive?
- Would the adjustment prevent you from offering a service to other users?
- Does the proposed adjustment mean breaking court rules (e.g. confidentiality)?

Remember, a request may not always be obvious, and neither will an impairment. Requests may be in writing, via telephone or in person, and they may come from third parties on behalf of others. People will not generally say to you, 'I'd like a reasonable adjustment under the DDA.' You are more likely to be faced with a customer who says 'Can I have that in Braille?' Others may not be able to articulate their needs verbally.

You are expected to take responsibility for ensuring that requests are acknowledged and dealt with promptly and effectively.

## **WHO PAYS FOR REASONABLE ADJUSTMENTS?**

In most cases, reasonable adjustments will be fairly inexpensive. For example, introducing a rest break into a hearing involves no direct costs, although it would need to be taken into account when arranging trials so that others are not inconvenienced by cases overrunning. However, if particular equipment has to be hired, such as an orthopaedic chair, the cost should be met from the court, area or regional budget.

HMCS is not allowed to pass on the cost of any adjustments to disabled customers.

## ANTICIPATORY DUTY

We should not wait until a disabled person wants to use a service before thinking about our duty to make reasonable adjustments. We should be thinking at all times about whether our services are accessible to people with disabilities, and what adjustments we may need to make for them. In many cases, it is appropriate to ask court users to identify whether they have any particular requirements and, if so, what adjustments may need to be made. Where possible, this type of request should be built into existing processes, e.g. by adding it to hearing notices.

Keep a record of all the access needs of regular disabled customers so that you can automatically provide the right support each time they visit.

Estates managers and court managers should use the access audit tool<sup>3</sup> to assess their courts. The results can then be used as a starting point for identifying any areas where reasonable adjustments need to be made.

The Witness Care Unit will have carried out a needs assessment in advance of a victim or witness's attendance at court, and may be able to provide information about specific requirements. But information sharing with the unit should be a two-way process: any requests for adjustments by court users should also be communicated back to the Witness Care Unit.

Does your court have a leaflet that explains the evacuation process for disabled people? If not, think about introducing one as part of your anticipatory duty.

Failure to anticipate the need for an adjustment may mean failing to comply with the DDA.

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<sup>3</sup> Available at <http://libra.lcd.gsi.gov.uk/centre/performance/customerservices/16606.htm>.



## **REFUSING REASONABLE ADJUSTMENTS**

The decision to refuse a reasonable adjustment should always be made in consultation with your court manager. Refusing to make an adjustment could hinder the user's access to justice, leading to a claim for damages against HMCS.

Where it is felt that a reasonable adjustment cannot be made, the court manager should initially ask the regional diversity manager/area director to endorse the decision. If the outcome of this consultation is inconclusive, the matter should be referred to the HMCS Customer Service Unit via the Disability Helpline (0800 358 3506). If necessary, the Unit will seek advice from departmental lawyers.

You should explain to the person who requested the adjustment why it is considered to be unreasonable, and explain the factors that have been taken into account in making the decision. If they suggest alternatives, these must be given the same level of consideration as the original request.

## **RECORDING ADJUSTMENTS REQUESTED, MADE AND REFUSED**

All reasonable adjustments requested, made and refused must be recorded and a log completed (see Annexes A and B). These documents should be kept in a central location at each court, and staff must be made aware of where they can be found. This will:

- help court managers when making decisions in the future; and
- identify good practice that can be shared across HMCS.

If HMCS were to be sued as a result of any decision, we would need to be able to demonstrate that careful consideration had been given to the request and a reasonable conclusion reached. A damages claim under the DDA can be made up to six months after the date of the decision, so records must be retained for at least 12 months.

## EXAMPLES OF REASONABLE ADJUSTMENTS

### Information/communication

- Provide information<sup>4</sup> in Braille, on CD or in large print on request.<sup>5</sup>
- Enlarge documents on a photocopier or from the intranet.
- Ensure that notices meet the minimum HMCS noticeboard standards<sup>6</sup> for font size and colour contrast.
- Allow more time to explain procedures and offer to read forms and leaflets out to court users with impaired sight or learning difficulties.
- Offer to help a court user with dyslexia to complete an application form.
- Explain clearly to court users where the nearest car parking for Blue Badge holders is. Be specific about distance – ‘five minutes’ walk’ is not a useful guide for a person who finds it difficult to walk.

If a court user coming to the counter to suspend a warrant has difficulty writing due to a disability, the counter staff can help by completing the form on their behalf, with answers being dictated.

- Provide qualified interpreters when requested, whether a British Sign Language (BSL) interpreter, lip speaker or palantypist (speech-to-text reporter). Interpreters are not always readily available and will need to be pre-booked (guidance<sup>7</sup> is available on how this can be arranged, who pays and how much notice should be given). Bear in mind that there may be a need for more than one interpreter at the same time. If more than one individual needs a BSL interpreter, they will need at least one interpreter each. In addition, if a deaf person also has difficulties communicating in BSL or has specific needs, they may need two interpreters: a BSL/English interpreter and a ‘relay’ interpreter (usually a deaf person) to work between them and the first interpreter. It may also be necessary to provide more than one interpreter where a hearing takes place over a long period of time, as interpreters will need to take regular breaks.
- Ensure that an induction loop/infrared system or similar facility is available for court users with hearing impairments when requested, that staff who know how to use it are available, and that it is tested in advance to ensure that it is working correctly.
- Ensure that the induction loop/infrared system<sup>8</sup> at the counter is always switched on and working.

<sup>4</sup> HMCS is only responsible for providing court documents – not solicitors’ documents – in alternative formats.

<sup>5</sup> This service is provided by Access to Information and Reading Services (AIRS) at a small cost, which will need to be met locally. For more information, contact Daniel Hodges on 020 3334 4054.

<sup>6</sup> Available at <http://libra.lcd.gsi.gov.uk/documents/general/Communications-PublicNoticeboardStandards.doc>.

<sup>7</sup> Available at <http://libra.lcd.gsi.gov.uk/centre/performance/customerservices/6613.htm>.

<sup>8</sup> Available in section 1.38 of the HMCS *Standards and design guide* (<http://libra.lcd.gsi.gov.uk/centre/performance/estates/10977.htm>).

Ensure that the judiciary knows when reasonable adjustments have been requested and/or implemented. For example, if a disabled person has requested regular breaks in order to take medication at specific times, the judge will need to be aware of this.

- A deaf person may not be able to hear their case being called via a call-out system. Make sure someone goes over to the deaf person when his or her name is called. The same should apply if a fire alarm goes off, even if it is only a test.

Ask blind court users if they have access to a screen reader (which converts written text into the spoken word) and whether they would like to receive documents by email in order to make use of this facility. Make sure any documents sent in this way are screen reader-friendly. Documents should be free of text boxes, and illustrations, photographs, pictures and other graphic representations should be replaced with a brief description.

- Glass screens make it difficult for lip speakers to communicate. Make sure space is available for face-to-face interviews without glass screens.

## Access/mobility

- If you know in advance that a disabled person will need substantial assistance to get around the building, make sure you warn them well in advance to bring a carer with them.

People with mental health problems face barriers to justice that may not be immediately obvious. The following simple measures can help to make the criminal justice system less daunting and intimidating:

- Making sure rooms have natural light.
  - Allowing people to take regular comfort breaks.
  - Encouraging people to get up and walk around if they wish, as some medication can cause restlessness.
  - Permitting a supporter or carer to accompany the person.
  - Making sure people are comfortable in their environment, e.g. by explaining why there are CCTV cameras in an interview room or by switching them off.
  - Asking police to remove hats and helmets.
- Monitor car parking to ensure the correct use of disabled parking facilities, or consider allowing a disabled person to park in the staff/judicial car park.
  - Adjust seating arrangements to allow space for wheelchairs.
  - If a deaf person has requested an induction loop/infrared system and the allocated room or court does not have one, consider moving the proceedings to another courtroom where facilities are available, and ensure that the equipment is in working order.

- Make sure there is enough space for court users who need the support of a carer or an assistance dog (and remember that assistance dogs often need water).
- Provide clipboards or lap trays for people to sign documents more easily.
- If there are double doors, ensure that they can both be opened if necessary.
- Clear corridors and aisles to create wider access for wheelchair users.
- Provide chairs for disabled court users who have to queue.

If your building cannot accommodate wheelchair users, consider alternative arrangements. For example, if all your hearing rooms or courtrooms are on the first floor and there is no lift, look at moving the hearing to a room that does have access, checking with the court user that the new location is acceptable.

## EXPECTATIONS AND RESPONSIBILITIES FOR MEETING DDA REQUIREMENTS

The DDA is as much about attitudes as it is about access. All staff (including contractors) must have a positive attitude, treat all court users politely and with respect and comply with:

- *Every Witness Matters*;
- the HMCS *Standard for Equality and Diversity*;
- the HMCS *Statement of Expectations*;
- the HMCS *Equality and Diversity Statement*;
- the HMCS *Statement of Customer Service Excellence*; and
- the parts of the HMCS *Core Competence Framework* that relate to meeting court users' needs.

You should not assume that the only way to make services accessible to disabled people is to make a physical alteration to premises (such as installing a ramp or widening a doorway). The DDA applies to all aspects of our service, including access to buildings, general procedural advice, leaflets, forms, hearings, care of jurors and information about the outcomes of hearings. Often, relatively minor measures are all that are needed to make our services accessible to disabled people.

### Vicarious liability

All equalities legislation includes a clause to state that employers are 'vicariously liable' for the actions of their employees. This means that if HMCS is accused of discrimination or harassment, and the claim is upheld, we will be liable for any financial awards made in favour of the complainant. However, if we can demonstrate to the court that we have done everything in our power to prevent an employee from discriminating against or harassing others,<sup>9</sup> but that the employee ignored this information, we may be able to argue that the employee should be held personally liable for any financial compensation payable. In theory, therefore, an individual staff member could be held liable for paying a financial award.

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<sup>9</sup> For example, through regular training, policy statements, team briefs, newsletters, guidance and/or information published on the intranet.

## OTHER SOURCES OF INFORMATION AND SUPPORT

### Information

#### ***HMCS Standard for Equality and Diversity***

Available at <http://libra.lcd.gsi.gov.uk/centre/performance/customerservices/16857.htm>.

#### ***Ministry of Justice Disability Equality Scheme***

This scheme underpins everything we do as a department to ensure fair and equal treatment for all. It sets out how we intend to make sure we are fully compliant with both the spirit and the letter of the law in delivering disability equality for citizens and staff:

[www.justice.gov.uk/publications/docs/disability-equality-scheme.pdf](http://www.justice.gov.uk/publications/docs/disability-equality-scheme.pdf).

#### ***HMCS Statement of Expectations***

Available at <http://libra.lcd.gsi.gov.uk/documents/misc/Performance-StatementOfExpectations.pdf>.

#### ***HMCS Statement of Customer Service Excellence***

Available at <http://libra.lcd.gsi.gov.uk/documents/centre/CustomerServiceExcellencePoster.pdf>.

#### ***Arranging interpreters***

Available at <http://libra.lcd.gsi.gov.uk/courtswork/general/guidance/972.htm>.

#### ***HMCS Noticeboard Standards***

Available at

<http://libra.lcd.gsi.gov.uk/documents/general/Communications-PublicNoticeboardStandards.doc>.

#### ***Implementing and complying with the Witness Charter***

Available at <http://libra.lcd.gsi.gov.uk/documents/criminal/VictimsAndWitness-Guidance-ImplementingAndComplyingWithTheWitnessCharter.doc>.

#### ***The Ability Manual***

Available at

<http://intranet.justice.gsi.gov.uk/justice/hr/support/downloads/disability-policy/ability-manual-2008.pdf>.

#### ***Time to Change***

A campaign to end mental health discrimination – for more details see [www.time-to-change.org.uk](http://www.time-to-change.org.uk).

#### ***Equal Treatment Bench Book***

A comprehensive guide on Equality and Diversity from the Judicial Studies Board

Available at [www.jsboard.co.uk](http://www.jsboard.co.uk)

#### ***Fairness in Courts and Tribunals***

A summary of the Equal Treatment Bench Book.

Available at [www.jsboard.co.uk](http://www.jsboard.co.uk)

#### ***Every Witness Matters – Employee Handbook***

Providing practical information, on the care of victims and witnesses to which all staff should adhere.

Available at <http://libra.lcd.gsi.gov.uk/documents/centre/VictimsAndWitness-EveryWitnessMatters.pdf>

## **Internal support**

### **HMCS Disability Helpline**

0800 358 3506

### **Ministry of Justice Disability Network**

Available at <http://libra-infonet.lcd.gsi.gov.uk/justice/staffnetworks/disnet/index.htm>.

**Regional diversity managers – contact details are on the HMCS intranet.**



## External organisations

### Royal National Institute for Deaf People (RNID)

The work of the RNID includes campaigning for change and providing information, consultancy and training.

Web: [www.rnid.org.uk](http://www.rnid.org.uk)  
Telephone: 0808 808 0123  
Textphone: 0808 808 9000  
Email: [informationline@rnid.org.uk](mailto:informationline@rnid.org.uk)

### Royal National Institute of Blind People (RNIB)

Provides help, advice and support for people with serious sight impairments, and consultancy on issues such as colour contrast.

Web: [www.rnib.org.uk](http://www.rnib.org.uk)  
Telephone: 0303 123 9999  
Email: [helpline@rnib.org.uk](mailto:helpline@rnib.org.uk)

### Mind

Provides confidential help on a range of mental health issues.

Web: [www.mind.org.uk](http://www.mind.org.uk)  
Telephone: 0845 766 0163 (deaf or speech-impaired enquirers can use the same phone number (if you are using BT Textdirect, add the prefix 18001))  
Email: [info@mind.org.uk](mailto:info@mind.org.uk)  
Legal advice: 0845 225 9393 (9am to 5pm, Monday to Friday) or [legal@mind.org.uk](mailto:legal@mind.org.uk)

### RADAR (The Disability Network)

Provides consultancy services and information on the needs of disabled people.

Web: [www.radar.org.uk](http://www.radar.org.uk)  
Telephone: 020 7250 3222  
Minicom: 020 7250 4119  
Email: [radar@radar.org.uk](mailto:radar@radar.org.uk)

### Scope

Provides information, advice and services for people with cerebral palsy, their families and carers.

Web: [www.scope.org.uk](http://www.scope.org.uk)  
Telephone: 0808 800 3333  
Email: [response@scope.org.uk](mailto:response@scope.org.uk)

### **Mencap**

Provides advice and support for parents, carers and people with learning difficulties.

Web: [www.mencap.org.uk](http://www.mencap.org.uk)  
Telephone: 020 7454 0454/0808 808 1111  
Email: [help@mencap.org.uk](mailto:help@mencap.org.uk)

### **Employers' Forum on Disability**

Membership organisation that supports employers to work with disabled people as employees, customers and partners.

Web: [www.efd.org.uk](http://www.efd.org.uk)  
Telephone: 020 7403 3020  
Textphone: 020 7403 0040  
Email: [disabilitydirections@efd.org.uk](mailto:disabilitydirections@efd.org.uk)

### **British Dyslexia Association**

Provides information, advice and signposting to promote a dyslexia-friendly society.

Web: [www.bdadyslexia.org.uk](http://www.bdadyslexia.org.uk)  
Telephone: 0845 251 9002  
Email: [helpline@bdadyslexia.org.uk](mailto:helpline@bdadyslexia.org.uk)

### **DANDA (Developmental Adult Neuro-Diversity Association)**

A leading user-led charity for people with Dyspraxia, Dyslexia, Dyscalculia, Attention Deficit Disorder and related conditions in the UK.

Web: [www.danda.org.uk](http://www.danda.org.uk)  
Telephone: 020 7435 7891  
Email: [info@danda.org.uk](mailto:info@danda.org.uk)

### **The National Autistic Society**

Help, support and services for individuals with autism and their families.

Web: [www.nas.org.uk](http://www.nas.org.uk)  
Telephone: 0845 070 4004  
Minicom: 0845 070 4003  
Email: [www.nas.org.uk/enquiry](http://www.nas.org.uk/enquiry)



## ANNEX A: RECORD OF REASONABLE ADJUSTMENT REQUEST

<b>Office/court:</b>		<b>Ref. no:</b>			
<b>Date:</b>		<b>Case number (if applicable):</b>			
<b>Name of person making request:</b>					
<b>Name of person requiring the adjustment (if different from above):</b>					
<b>Details of adjustment requested:</b>					
<b>Details of any alternative adjustment offered (see section 2 below):</b>					
			Yes ✓	No x	
<b>Request granted?</b>					
<b>Issues to consider</b>					
<b>1.</b>	<b>Would the adjustment solve the difficulty?</b>				
<b>2.</b>	<b>Is there an alternative that would be better, easier to provide or less expensive?</b>  If 'yes', it is reasonable to offer the alternative. However, this must be suitable for the individual concerned in the specific circumstances that have arisen.				
<b>3.</b>	<b>Would the adjustment prevent you from offering a service to other users?</b>  If 'yes', it is reasonable to refuse to make the adjustment. Please give a brief explanation of the circumstances below.				
<b>4.</b>	<b>Is it practicable to make the adjustment?</b>  If 'no', it may be reasonable to refuse to make the adjustment. Please give a brief explanation of the circumstances below.				

5.	<p><b>Does the proposed adjustment mean breaking court rules (e.g. on confidentiality)?</b></p> <p>If 'yes', it may be reasonable to refuse to make the adjustment. Please give a brief explanation of the circumstances below.</p>		
<p><b>If you are not sure of the effect of the adjustment, or feel you cannot make a decision, please discuss it with your court manager.</b></p>			
<p><b>Reason for refusing the adjustment (see 3, 4 and 5 above) and details of endorsement process followed (as set out in the guidance):</b></p>			
<p><b>Has the customer been made aware of reasons for the refusal?</b></p>			
<p><b>Additional comments:</b></p>			
<p><b>Signed:</b></p>		<p><b>Date:</b></p>	

## ANNEX B: REASONABLE ADJUSTMENTS LOG

**Court:**

Ref. no.	Date	Request received from	Recipient (if different)	Details of adjustment requested	Request granted?		Reason for any refusal	Details of alternative adjustment provided	Other comments <sup>10</sup>
					Yes	No			

<sup>10</sup> Use this space to record any difficulties staff have had in making reasonable adjustments, e.g. not knowing who to contact to arrange an induction loops/infrared systems. This will help to identify any areas where processes can be improved.

To request this publication in an alternative format, contact  
[HMCSequalityteam@justice.gsi.gov.uk](mailto:HMCSequalityteam@justice.gsi.gov.uk)  
or call 0121 250 6350.