Reasonable Adjustments in the Workplace

A practical session for managers, HR teams and business partners

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About Matt

17 years working in neurodiversity

Neurodiversity consultant, trainer, keynote speaker and author

ADHD (combined type, severely impairing), autism (PDA profile) and dyslexia

Worked with public sector, NHS, police, housing and corporate organisations

Developer of the EEES™ framework and Which Means What™ (WMW) tool

"I always talk to what it means to you — not what the condition is. The same situation lands completely differently for different people. Until we understand that, we can't help."

Today’s Agenda

1

Scene Setting

The legal landscape — without this being a law lecture

2

The Full Picture

Physical, mental health and neurodivergent conditions together

3

Case Law in Practice

What goes wrong, and how avoidable it is

4

EEES™ Framework

Spotting what is beneath the surface before it escalates

5

Which Means What™

Having better, more structured adjustment conversations

6

Practical Application

Real scenarios, real questions — no names needed

Before We Start

Eight quick statements. True or false — based on what you currently believe.

There are no trick questions. This is about noticing where your starting assumptions sit — and revisiting them later. We will come back to these at the end of the session.

Write your answers in the workbook now. Hold them — we revisit at the close.

1

True or false?

An employer must only consider reasonable adjustments once an employee has a formal medical diagnosis.

True

False

2

True or false?

Reasonable adjustments are intended to remove disadvantage, not to give someone an unfair advantage.

True

False

3

True or false?

Employers are required to agree to any adjustment requested by an employee if it relates to their disability.

True

False

4

True or false?

Cost alone is enough to justify refusing a reasonable adjustment.

True

False

5

True or false?

A workplace policy or standard process can still be discriminatory if it puts a disabled person at a substantial disadvantage.

True

False

6

True or false?

The duty to make reasonable adjustments is ongoing and should be reviewed if circumstances change.

True

False

7

True or false?

Reasonable adjustments only apply to employees, not job applicants.

True

False

8

True or false?

If an employer offers a different adjustment than the one requested, this can still meet their legal duty.

True

False

Section 1

Scene Setting

The legal landscape — without making this a law lecture

What Are Reasonable Adjustments?

The Legal Duty

Under the Equality Act 2010, employers must make reasonable adjustments where a provision, criterion or practice (PCP), physical feature or absence of auxiliary aid puts a disabled person at substantial disadvantage. The duty is to remove the disadvantage — not treat everyone the same.

What Is Disability?

- A physical or mental impairment with a substantial and long-term adverse effect
- Substantial means more than minor or trivial
- Long-term means lasting or likely to last 12 months or more
- Cancer, HIV and MS are covered from diagnosis regardless of current effect

The Four-Part Test (s.6)

Physical or mental impairment?

Do they have a physical or mental impairment?

Adverse effect?

Does it adversely affect normal day-to-day activities?

Substantial?

Is the effect more than minor or trivial?

Long-term?

Lasting or likely to last 12 months or more?

The Three Duties Under the Equality Act

In most situations, more than one duty applies simultaneously. The question is always: what does this specific person need, in this specific context, to be on a level footing?

1 PCPs (s.20(3))

Any rule, policy, requirement or practice — written or unwritten — applied to employees. If it puts a disabled person at substantial disadvantage, it must be adjusted.

Examples

Fixed hours · Attendance trigger policy · Office-only requirement · Verbal-only reviews

2 Physical Features (s.20(5))

A physical feature of the workplace that creates a barrier must be removed, altered or worked around.

Examples

Steps or inaccessible entrances · Open-plan with no quiet space · Lighting that cannot be adjusted

3 Auxiliary Aids (s.20(4))

Where a disabled person is disadvantaged by the absence of an aid or service, the employer must provide it.

Examples

Screen readers · Written meeting summaries · BSL interpreters · Specialist seating

What Does ‘Reasonable’ Mean?

There is no fixed definition. Tribunals assess whether the employer took the adjustment seriously.

Effective

Does it actually remove the disadvantage? An adjustment that doesn’t address the core barrier is not reasonable, even if it seems helpful.

Proportionate

Is the cost and disruption justified? Consider your organisation’s size and resources, practicality, and operational impact.

Fair

Does it significantly disadvantage others? An adjustment should not create unreasonable burdens or fundamentally alter the nature of the role.

The key tribunal question: Did you genuinely consider the adjustment and document your reasoning — or did you dismiss it without proper thought?

Section 2

The Full Picture

Physical, mental health and neurodivergent conditions — all together

The Full Spectrum — All Disabilities

Neurodivergent	Mental Health	Physical	Acquired / Other
ADHD	Anxiety disorders	Musculoskeletal / MSK	Brain injury
Autism / ASC	Depression	Chronic pain	Long COVID
Dyslexia	PTSD	Autoimmune conditions	Stroke
Dyspraxia / DCD	Bipolar disorder	Cancer (from diagnosis)	Conditions in remission
Dyscalculia	OCD	Progressive conditions	Past conditions
Tourette Syndrome	Stress (when clinical)	Sensory impairments	Conditions expected to recur

Key point: The Equality Act definition is functional, not diagnostic. The question is the effect on the person — not the label.

Why It Is Never Just One Thing

Conditions rarely present in isolation. What we see on the surface is almost never the full picture — and that has implications for how we support people.

ADHD + anxiety

One of the most common combinations in adults

MSK pain + depression

Chronic pain is strongly correlated with low mood

PTSD + anxiety

Trauma conditions almost always co-present

Long COVID

Fatigue, brain fog, anxiety and joint pain frequently together

Autism + ADHD (AuDHD)

Affects up to 50% of autistic people

Dyslexia + dyspraxia

Often co-occur, compounding processing difficulties

"The implication: ask about experience, not diagnosis. The WMW framework is built for this."

Section 3

Case Law in Practice

What goes wrong — and what every case has in common

Madden v Commissioner of Police of the Metropolis

ADHD · Anxiety · Emotional Dysregulation · Rejection Sensitivity Dysphoria · Disciplinary Process

What happened

A police officer with 22 years' unblemished service and ADHD — where medication was temporarily ineffective due to blood pressure complications — made comments with sexual innuendo to three colleagues. All four disability conditions were conceded by the respondent.

Outcome: Unfair dismissal SUCCEEDED. Section 15 discrimination SUCCEEDED. Remedy pending.

What this teaches us

- Consider disability before initiating disciplinary action — it is a legal requirement
- Psychiatric and therapeutic evidence must actually reach the decision-maker
- An Investigating Officer's lower recommendation cannot be casually overridden without evidenced justification
- 22 years' clean service + documented medication failure = dismissal very difficult to justify proportionately
- Explicit written instruction on workplace social expectations can itself be a reasonable adjustment for ADHD

Case 2305065/2024

Madden v Commissioner of Police of the Metropolis

Case 2305065/2024

Issue · Cause · Claim

The Issue

Martin Madden was a Police National Computer Bureau officer. Between September 2022 and April 2023 — a period when his ADHD medication was ineffective due to blood pressure complications — he made comments with sexual innuendo to three female colleagues. The Investigating Officer recommended misconduct only. The Appropriate Authority escalated to gross misconduct.

The Cause

Conduct arose during documented, unmedicated ADHD. Impulsivity, difficulty reading implicit social cues and inability to self-censor in informal settings are recognised features of ADHD Combined Type and Rejection Sensitivity Dysphoria. This was not a character failing — it was a disability-related behaviour during a period of medication failure.

The Claim

Unfair dismissal; s.15 discrimination arising from disability; indirect discrimination; failure to make reasonable adjustments.

Madden v Commissioner of Police of the Metropolis

Case 2305065/2024

What Went Wrong · What the Respondent Did Wrong

What went wrong

A solicitor's letter and a psychotherapist's report were never placed before the disciplinary panel. The panel's written rationale did not mention disability at all — contrary to the employer's own SOP 2.10. A 9-month procedural delay caused severe mental health deterioration. The appeal was not a genuine rehearing.

What the respondent did wrong

- Did not consider disability before initiating or escalating disciplinary action
- Did not ensure psychiatric and therapeutic evidence reached the decision-maker
- Overrode the Investigating Officer's lower recommendation without evidenced justification
- Did not treat explicit, written instruction as a reasonable adjustment for an employee who needed social norms stated plainly rather than assumed
- Allowed a 9-month delay that caused foreseeable and identifiable harm
- Ran a defective appeal that could not remedy the original procedural failures

Madden v Commissioner of Police of the Metropolis

Result · Training Principle

The result

Unfair dismissal SUCCEEDED on both procedural and substantive grounds. Section 15 SUCCEEDED: ADHD caused difficulty reading social cues; the comments arose in consequence of disability; dismissal was disproportionate given 22 years' clean service, medication improvement, and the absence of actual distress to two of three complainants. The specific RA claim and indirect discrimination were dismissed. Remedy pending.

Case reference

Case 2305065/2024

Disability type

ADHD · Anxiety · Emotional Dysregulation · Rejection Sensitivity Dysphoria · Disciplinary Process

Training Principle

Never initiate or escalate disciplinary action without first considering whether disability is engaged. Evidence must reach decision-makers. Long service combined with documented disability context makes dismissal extremely difficult to justify.

Ferraro v Department for Work and Pensions

Fistula · All Three s.20 Duties · Hybrid Working · Auxiliary Aid · Physical Feature

What happened

A DWP employee with a fistula requiring immediate toilet access and postural management requested hybrid working and a height-adjustable desk. DWP refused on operational and cost grounds. All three s.20 duty types arose simultaneously from one employee's needs.

Outcome: Reasonable adjustment claim SUCCEEDED on both adjustments.

What this teaches us

Hybrid working as an RA is now well-established — generic operational objections without evidence will fail

A height-adjustable desk is a standard piece of equipment at trivial cost — refusal without justification is indefensible

Physical conditions trigger all three s.20 duty types simultaneously

Post-pandemic, the evidential bar for refusing hybrid working has risen significantly

Environment adjustments are often the easiest and cheapest to make — when the employer chooses to act

2026 Employment Tribunal

Ferraro v Department for Work and Pensions

Issue · Cause · Claim

The Issue

The claimant had a fistula — a chronic bowel condition requiring immediate and frequent toilet access and the ability to manage posture to reduce pain. She requested hybrid working and provision of a height-adjustable desk. DWP refused both on operational and cost grounds.

The Cause

The nature of the condition made prolonged office attendance and commuting physically unsafe on a daily basis. The physical workspace (fixed desk and chair) and the attendance requirement (office-only) each directly obstructed the claimant's ability to work safely.

The Claim

Failure to make reasonable adjustments under all three s.20 duty types simultaneously: PCP — office attendance requirement (s.20(3)); Auxiliary Aid — height-adjustable desk (s.20(4)); Physical Feature — fixed desk and chair (s.20(5)).

Ferraro v Department for Work and Pensions

What Went Wrong · What the Respondent Did Wrong

What went wrong

DWP cited operational requirements and cost. Neither justification was supported by evidence. The employer applied a preference for office attendance rather than the correct legal test. No individual assessment of the claimant's specific needs was made.

What the respondent did wrong

- Refused hybrid working on general operational preference without evidencing specific impact
- Failed to recognise that post-pandemic, objections to hybrid working carry a significantly higher evidential burden
- Refused a height-adjustable desk at trivial cost without proportionate justification
- Failed to recognise that all three s.20 duty types were engaged simultaneously
- Applied the wrong test: "do we prefer office attendance?" rather than "is it reasonable to adjust?"

Ferraro v Department for Work and Pensions

Result · Training Principle

The result

Reasonable adjustment claim SUCCEEDED on both adjustments. DWP had not adequately justified either refusal. This is a significant case because it illustrates all three s.20 obligation types (PCP, Auxiliary Aid, Physical Feature) arising simultaneously from a single employee's needs.

Case reference

2026 Employment Tribunal

Disability type

Fistula · All Three s.20 Duties · Hybrid Working · Auxiliary Aid · Physical Feature

Training Principle

A single employee's disability can engage all three s.20 duties at once. Physical conditions are not simpler or less protected than other disabilities. Hybrid working is now an established adjustment — assert it without evidence at your own risk.

Williams v Royal Mail Group Ltd

Autism · PCP · Start Times · Operational Objection Without Evidence

What happened

An autistic postal worker on a night shift required a 06:45 start time rather than the contractual 06:00, due to the impact of autism on routine, sleep regulation and transitions. Royal Mail refused, citing operational requirements but providing no specific evidence that 06:45 would cause genuine disruption.

Outcome: Reasonable adjustment claim SUCCEEDED. Resolved in approximately 45 minutes. Remedy pending.

What this teaches us

Start and finish times are among the most common and well-recognised RA categories for autism

Operational objections must be evidenced — assertion is not enough and will not succeed at tribunal

A 45-minute variation for one worker on a shift is not inherently unreasonable without specific evidence of harm

Adjustments to routine and predictability are structural needs, not lifestyle preferences

The obligation is to genuinely investigate feasibility — not to agree every request, but not to refuse without evidence

Case 2412913/2023

Williams v Royal Mail Group Ltd

Case 2412913/2023

Issue · Cause · Claim

The Issue

Mr D Williams was an autistic postal worker on a night shift who required a 06:45 start time rather than the contractual 06:00 start, due to the impact of autism on his routine, sleep regulation and ability to manage transitions. Royal Mail refused, citing operational requirements.

The Cause

Consistent routine and predictable start times are structural environmental needs for many autistic people. The cognitive and emotional load of transitions is significantly greater for autistic individuals. A 45-minute variation that appeared trivial to the employer was functionally significant for this employee.

The Claim

Failure to make a reasonable adjustment under s.20(3) — the 06:00 start time PCP placed the claimant at substantial disadvantage compared with non-disabled colleagues.

Williams v Royal Mail Group Ltd

Case 2412913/2023

What Went Wrong · What the Respondent Did Wrong

What went wrong

Royal Mail's refusal was based on asserted operational requirements. No specific evidence was provided that allowing a 06:45 start for one employee on a shift would cause any genuine operational disruption. The employer's position was a statement of preference, not a justified necessity.

What the respondent did wrong

- Refused the adjustment without evidencing actual operational impact
- Treated a structural disability need (routine consistency) as a personal lifestyle preference
- Applied the wrong test: "do we prefer a 06:00 start?" rather than "is it reasonable to adjust?"
- Failed to recognise that a 45-minute variation for one worker is not inherently unreasonable
- Did not investigate whether the variation would cause genuine disruption — merely asserted it would

Williams v Royal Mail Group Ltd

Result · Training Principle

The result

Reasonable adjustment claim SUCCEEDED. Royal Mail could not discharge the burden of showing the adjustment was not reasonable. The employer's failure to evidence its operational position left it with no substantive defence. The case was resolved at tribunal in approximately 45 minutes.

Case reference

Case 2412913/2023

Disability type

Autism · PCP · Start Times · Operational Objection Without Evidence

Training Principle

Operational objections must be evidenced, not asserted. A blanket preference for existing working arrangements is not a legal justification. Adjustments to predictability and routine are structural needs for autism, not negotiable preferences.

Ziga v Anglian Windows Ltd

Depression · Anxiety · Joint Condition · Four-Day Week · PCP · Energy-Limiting Conditions

What happened

An employee with co-occurring depression, anxiety and a joint condition requested a four-day working week. The employer refused. The tribunal found the employer had not evidenced a compelling operational reason for requiring five days.

Outcome: Reasonable adjustment (four-day working week) SUCCEEDED.

What this teaches us

Reduced hours and compressed weeks are among the most effective adjustments for energy-limiting and mental health conditions

Employers must evidence actual operational impact — preference for full attendance is not a justification

Three co-occurring conditions can all be addressed by a single structural adjustment

The correct test: is the adjustment reasonable? Not: do we prefer full attendance?

The comparison is with the disadvantage caused by the PCP — not with what colleagues do

Case 3301401/2021 and others

Ziga v Anglian Windows Ltd

Case 3301401/2021 and others

Issue · Cause · Claim

The Issue

Mr A Ziga had co-occurring depression, anxiety and a joint condition. He requested a four-day working week as a reasonable adjustment. Anglian Windows refused. The tribunal found the employer had not demonstrated a sufficiently compelling operational reason for requiring five days.

The Cause

Depression and anxiety are energy-limiting conditions. A five-day week without adequate recovery time can prevent effective symptom management and lead to escalating absence. A four-day week builds in structured recovery. The joint condition added a physical fatigue dimension that compounded the mental health picture.

The Claim

Failure to make a reasonable adjustment under s.20(3) — the five-day working week attendance requirement was a PCP that placed the claimant at substantial disadvantage.

Ziga v Anglian Windows Ltd

Case 3301401/2021 and others

What Went Wrong · What the Respondent Did Wrong

What went wrong

The employer refused on the basis that operational needs required five days of attendance. That objection was not backed by specific evidence. Preference for full attendance is not a legal justification: the test is whether the adjustment is reasonable.

What the respondent did wrong

- Refused a reduced-hours adjustment without evidencing actual operational impact
- Applied the wrong test: “we need everyone five days” is an assertion, not a justification
- Failed to recognise that a single structural adjustment could address three co-occurring conditions simultaneously
- Did not assess whether output targets could be met on four days
- Did not document any genuine individual consideration of the adjustment request

Ziga v Anglian Windows Ltd

Result · Training Principle

The result

Reasonable adjustment claim SUCCEEDED. The tribunal found the four-day week would have removed or substantially reduced the disadvantage caused by the PCP, and that the employer had not met the evidential threshold for refusing it.

Case reference

Case 3301401/2021 and others

Disability type

Depression · Anxiety · Joint Condition · Four-Day Week · PCP · Energy-Limiting Conditions

Training Principle

Attendance requirements are PCPs. Refusing reduced hours for energy-limiting conditions without evidenced operational necessity is legally high-risk. The question is not "do we want five days?" but "can we justify requiring five days?"

Aderemi v London and South Eastern Railway Ltd

Lower Back Condition · Functional Test · What the Person Cannot Do · Disability Definition

What happened

A station assistant whose role required prolonged standing developed severe lower back pain. The Employment Tribunal found he was not disabled, focusing on activities he could still do rather than those he could not. The EAT found this was a legal error.

Outcome: EAT ALLOWED the appeal. Case REMITTED for rehearing on the disability question.

What this teaches us

Never assess disability by listing what a person can still do — the legal test focuses on what they cannot do

The threshold is binary, not a spectrum: if an effect is not trivial, it is substantial

Activities common across a range of employment (including prolonged standing) can be normal day-to-day activities

The employer's own OH evidence found the claimant 'significantly restricted' — that finding needed to be followed through

Functional impairment is the test — not diagnosis, not label, not whether the cause is understood

UKEAT/0316/12/KN · December 2012

Aderemi v London and South Eastern Railway Ltd

UKEAT/0316/12/KN · December 2012

Issue · Cause · Claim

The Issue

Mr P Aderemi was a station assistant at London Bridge, required to be on his feet for substantial periods during 9-hour shifts. He developed severe lower back pain. By 2010 he could stand for only 20-25 minutes before needing to rest and was unable to bend or lift. He was dismissed for capability. The Employment Tribunal found he was not disabled.

The Cause

The Employment Tribunal concentrated on what the claimant could still do — walking, carrying light items, washing up — rather than what the condition prevented him from doing. In doing so it applied the wrong legal test and arguably excluded work activities from the disability assessment.

The Claim

Unfair dismissal; disability discrimination. The appeal to the EAT concerned whether the Employment Tribunal had correctly determined that the claimant was not disabled.

Aderemi v London and South Eastern Railway Ltd

What Went Wrong · What the Respondent Did Wrong

What went wrong

The Employment Tribunal's error was one of legal approach. It focused on retained abilities rather than impaired ones. The EAT noted there was "no evaluation using the comparative approach" required by law, and no adequate reference to what the claimant could not do despite the employer's own OH evidence confirming significant physical restriction.

What the respondent did wrong

- Assessed disability by reference to what the claimant could still do, rather than what he could not do
- Failed to apply the correct Paterson test: compare how the person carries out activities with and without the impairment
- Did not treat prolonged standing — a feature of many employment roles — as a normal day-to-day activity
- Did not adequately weigh its own occupational health evidence, which described the claimant as significantly restricted with a high level of discomfort
- The dismissal letter acknowledged return to substantive duties was unlikely in the foreseeable future — yet disability was not properly resolved

Aderemi v London and South Eastern Railway Ltd

Result · Training Principle

The result

The EAT allowed the appeal and remitted the case for rehearing. Mr Justice Langstaff confirmed: the statutory test requires focus on what the claimant cannot do. The threshold is not a sliding scale — if an effect cannot be categorised as trivial, it is substantial. Activities common across a range of employment can be normal day-to-day activities.

Case reference

UKEAT/0316/12/KN · December 2012

Disability type

Lower Back Condition · Functional Test · What the Person Cannot Do · Disability Definition

Training Principle

Do not assess disability by asking what someone can still do. Ask what the condition prevents or makes substantially harder — and whether that effect is more than minor or trivial. If yes, disability is established regardless of label or cause.

Walker v Sita Information Networking Computing Ltd

Functional Overlay · Obesity · Effect Not Cause · No Label Required · Disability Definition

What happened

Mr Walker suffered from a large constellation of genuinely experienced symptoms that could not be attributed to a single identifiable organic cause. He was also obese at 21.5 stones. The Employment Judge found he was not disabled because no physical or mental cause could be identified. The EAT found this was wrong in law.

Outcome: EAT ALLOWED the appeal. Finding of disability SUBSTITUTED — the claimant was disabled.

What this teaches us

The cause of an impairment is legally irrelevant — only the effect on the individual matters

The absence of an identifiable organic cause is evidential only — not a legal bar to disability

Obesity-related functional impairments (mobility restriction, fatigue, breathlessness) are assessed by their effect

The Act does not support a 'they brought it on themselves' approach — this is both legally wrong and very risky

Multiple conditions in combination may collectively satisfy the disability threshold

UKEAT/0097/12 · February 2013

Walker v Sita Information Networking Computing Ltd

Issue · Cause · Claim

The Issue

Mr J C Walker suffered from a substantial and genuine constellation of conditions — including asthma, dyslexia, knee problems, diabetes, high blood pressure, chronic fatigue syndrome, bowel problems, anxiety, depression and sacroiliac joint pain — alongside functional overlay accentuated by obesity (21.5 stones). An occupational physician confirmed a chronic condition affecting daily living. His symptoms were not challenged as genuine.

The Cause

The Employment Judge applied pre-2005 case law that required mental impairments to be attributable to a clinically recognised condition. That requirement was removed from the Act in 2005. The Judge treated the absence of an identifiable organic cause as a legal bar to disability — rather than a merely evidential matter.

The Claim

Disability discrimination. The core issue on appeal was whether the Employment Judge had correctly assessed whether the claimant was disabled.

Walker v Sita Information Networking Computing Ltd

What Went Wrong · What the Respondent Did Wrong

What went wrong

The Employment Judge asked the wrong question: what is causing these symptoms? He should have asked: does the claimant have an impairment, and does it have a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities? The genuine nature of the symptoms was not in dispute.

What the respondent did wrong

- Treated the absence of a recognised pathological cause as a legal bar to disability, rather than an evidential factor
- Relied on pre-2005 case law that no longer represented the correct legal position
- Failed to follow the statutory Guidance: the cause of an impairment is irrelevant — the effect is what matters
- Did not apply the Guidance example that obesity-related mobility restrictions are assessed by effect, not cause
- Applied an implicit moral filter: if a condition has no clear medical explanation or is compounded by weight, it was treated as less protected

Walker v Sita Information Networking Computing Ltd

Result · Training Principle

The result

The EAT allowed the appeal and SUBSTITUTED a finding that the claimant was disabled. Mr Justice Langstaff confirmed: an impairment does not need an identifiable physical or mental cause to qualify. The focus must be on the effect on the individual's ability to carry out normal day-to-day activities. The absence of an obvious cause is only evidentially relevant where the genuineness of symptoms is disputed — here it was not.

Case reference

UKEAT/0097/12 · February 2013

Disability type

Functional Overlay · Obesity · Effect Not Cause · No Label Required · Disability Definition

Training Principle

Do not assess disability by asking what caused it, whether it has a recognised label, or whether the person contributed to it. Ask only: what is the effect on this person's daily life, and is that effect substantial and long-term?

Linsley v Commissioners for HMRC

Ulcerative Colitis · Parking · Stress as Disadvantage · Employer's Own Policy · Correct RA Test

What happened

Mrs Linsley had ulcerative colitis, aggravated by stress. Multiple Occupational Health reports over six years recommended a reserved parking space. HMRC did not provide one at her Benton Park View site. The adjustments made addressed proximity to toilets but not the separately identified disadvantage: the stress of not knowing whether a parking space would be available.

Outcome: EAT UPHELD three grounds of appeal. Case REMITTED to reconsider the reasonable adjustment issue.

What this teaches us

Breach of your own policy is a serious indicator that an adjustment was unreasonable to refuse

The tribunal must focus on the specific disadvantage identified, not a more convenient version of it

The correct test is whether the adjustment made removed the identified disadvantage — not whether it was the only or best option

Six successive Occupational Health reports recommending the same adjustment is compelling evidence it is reasonable

Stress as an aggravating factor for a physical condition is a recognised and legally relevant disadvantage

UKEAT/0150/18/JOJ · December 2018

Linsley v Commissioners for HMRC

UKEAT/0150/18/JOJ · December 2018

Issue · Cause · Claim

The Issue

Mrs M Linsley had ulcerative colitis — accepted as a disability — which could manifest in sudden, urgent bowel movements aggravated by stress. She had held reserved parking at two previous HMRC sites. Despite six Occupational Health reports recommending a dedicated space over several years, none was provided at Benton Park View. Managers dealing with her requests were unaware of HMRC's own national parking policy, which gave explicit priority to employees requiring a space as a reasonable adjustment.

The Cause

The managers involved operated in ignorance of the relevant policy. The arrangements they made addressed proximity to toilet facilities but did not address the separately identified and distinct disadvantage: the daily stress of not knowing whether a space would be available, which itself aggravated her symptoms.

The Claim

Failure to make a reasonable adjustment (parking arrangements). The Employment Tribunal dismissed the claim, finding the alternative arrangements were a reasonable adjustment. The EAT found three errors of law in that conclusion.

Linsley v Commissioners for HMRC

What Went Wrong · What the Respondent Did Wrong

What went wrong

The Employment Tribunal found HMRC had breached its own parking policy but still dismissed the claim. The EAT found the tribunal had wrongly discounted the policy; failed to focus on the actual identified disadvantage (stress from uncertainty); and applied the wrong test by asking whether a dedicated space was the “only possible” or “best” adjustment.

What the respondent did wrong

- Operated in ignorance of its own national parking policy, which expressly required a space following Occupational Health recommendation
- Failed to implement what six successive Occupational Health reports had recommended over a period of years
- Addressed the wrong disadvantage: proximity to toilets was addressed; the stress of searching for a space was not
- Treated its own policy as merely discretionary — when breach of an employer’s own policy requires a cogent reason
- Did not give any active or reasoned consideration to why the policy should not apply to this claimant

Linsley v Commissioners for HMRC

Result · Training Principle

The result

Three of four grounds of appeal UPHELD. Remitted to the same tribunal to reconsider the reasonable adjustment issue. Key principles confirmed: (1) an employer's own policy recommending an adjustment is highly relevant — departing from it requires a good reason; (2) the tribunal must focus on the specific identified disadvantage; (3) the test is not whether the adjustment sought was the only or best option, but whether it addressed the actual disadvantage.

Case reference

UKEAT/0150/18/JOJ · December 2018

Disability type

Ulcerative Colitis · Parking · Stress as Disadvantage · Employer's Own Policy · Correct RA Test

Training Principle

If your own policy says make the adjustment, you need a good reason not to. Address the actual disadvantage identified — not a more convenient substitute. Six OH reports recommending the same thing is very hard to defend against.

What Every Case Has in Common

Across physical conditions, neurodivergence, mental health — the same failures appear again and again.

1

Waiting for a diagnosis

The legal duty is triggered by knowledge of disability — not a formal diagnosis.

2

Asserting without evidencing

Operational objections must be evidenced. Assertion is not enough. Tribunals are not impressed.

3

No documentation

Did you genuinely consider the adjustment? Without a record, you cannot prove you did.

4

Withdrawing adjustments

The duty is ongoing. Withdrawing without a structured review is a standalone RA failure.

5

Treating conduct and disability as separate

Behaviour that triggers disciplinary action may arise directly from disability. Consider this before escalating.

6

Ignoring informal disclosure

The duty to consider adjustments is triggered by what the employer knew or should have known.

Understanding the Tribunal Risk

Compensation is uncapped in disability discrimination claims.

£4.58M

Wright-Turner v Hammersmith & Fulham 2023

£2.57M

Barrow v Kellogg Brown and Root

£470K+

Borg-Neal v Lloyds Banking Group 2023

Most Common Tribunal Failures

- No adjustment made despite clear need
- Adjustment withdrawn without review
- Waiting for diagnosis before acting
- Informal disclosures not taken seriously
- No documentation of consideration
- Assuming disability and conduct are unrelated

Discussion: PCPs in Your Organisation

Question 1	What PCPs exist in your organisation that you have never examined for potential disadvantage? Think about both written policies and unwritten expectations.
Question 2	Are there processes that work fine for most of your workforce but would structurally disadvantage someone with anxiety, PTSD, chronic pain or a neurodivergent condition? Name one.
Question 3	If a tribunal asked you to justify one of those PCPs tomorrow, what would you say? Could you explain why it is necessary and proportionate?

Bring real examples. Names stay in the room. The goal is to identify risk before it becomes a claim.

Section 4

The EEES™ Framework

Spotting what is beneath the surface — before it becomes a crisis

Supporting People with EEES™

Four universal human lenses — not diagnostic categories. These become visible as strain signals when someone is struggling.

E

Executive Function

Planning, prioritising, initiating, sequencing, working memory.

Under strain: Missed tasks · Difficulty starting · Appearing disorganised · Forgetting conversations

E

Emotional Regulation

The ability to manage emotional responses in real time, particularly under pressure.

Under strain: Disproportionate responses · Emotional flatness · Difficulty recovering from setbacks

E

Environment

The physical and social conditions in which work takes place: layout, noise, predictability.

Under strain: Avoidance · Reduced performance in specific settings · Inconsistent output

S

Sensory Processing

How the individual processes sensory input: light, sound, touch, smell, movement.

Under strain: Fatigue · Overwhelm · Difficulty concentrating · Physical discomfort

E — Environment

EEES™ in Detail

E

Definition

The physical and social conditions in which work takes place: layout, noise, predictability, social demands.

Signs of strain

Avoidance · Reduced performance in specific settings · Inconsistent output · Disruptive behaviour

What this looks like in your organisation

Colleagues who perform differently depending on where they are working, which team they are with, or how predictable their day is. This is environment in action.

Case law illustration

Ferraro (DWP refused hybrid working despite environment being the whole adjustment need) · Williams (routine consistency as structural need)

If you are noticing this in a team member, it is time for a conversation — not a performance review.

E — Executive Function

EEES™ in Detail

E

Definition

Planning, prioritising, initiating, sequencing, working memory. The cognitive architecture of getting things done.

Signs of strain

Missed tasks · Difficulty starting · Appearing disorganised despite effort · Lost items · Forgotten conversations

What this looks like in your organisation

This often looks like poor performance or attitude. Before anyone considers formal performance management, consider whether EEES is the explanation.

Case law illustration

Madden (ADHD EF failure — impulsivity in social communication — resulted in avoidable dismissal) · Drewniaczyk (ADHD + dyslexia)

If you are noticing this in a team member, it is time for a conversation — not a performance review.

E — Emotional Regulation

EEES™ in Detail

E

Definition

The ability to manage emotional responses in real time, particularly under pressure or uncertainty.

Signs of strain

Disproportionate responses · Emotional flatness · Difficulty recovering from setbacks · Perceived overreaction

What this looks like in your organisation

A normally even-tempered colleague who responds sharply to reasonable feedback, or someone who appears disengaged after what seems like a minor event. It rarely means the person is difficult.

Case law illustration

McRobbie (PTSD meant standard management interactions constituted harassment) · Twigg (SLE + anxiety: stress as physical disease trigger)

If you are noticing this in a team member, it is time for a conversation — not a performance review.

S — Sensory Processing

EEES™ in Detail

S

Definition

How the individual processes sensory input: light, sound, touch, smell, movement, introspection and proprioception.

Signs of strain

Fatigue · Overwhelm · Difficulty concentrating · Physical discomfort affecting focus · Complaints about environment

What this looks like in your organisation

Colleagues who can’t work in open-plan despite seeming capable elsewhere. Sensory processing is often the first thing you notice — it’s usually the last thing you think to act on.

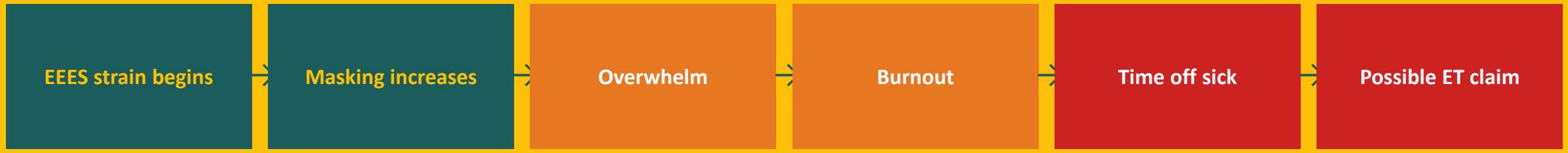
Case law illustration

Ferraro (physical environment directly determined capacity to work) · Linsley (parking as sensory-environment need)

If you are noticing this in a team member, it is time for a conversation — not a performance review.

When EEES Strain Goes Unaddressed

The earlier it is interrupted, the easier it is for everyone.



This often looks like anxiety, stress or shutdown that arrived from nowhere. It rarely did.

Intervening early	Waiting until crisis point
A supportive conversation before it escalates. A low-cost adjustment that removes the barrier. The employee stays, stays well, stays productive. Cost: low. Impact: high. Risk: near zero.	Long-term sick absence. Recruitment and replacement. OH referrals. Potential tribunal. Reputational cost. Loss of a capable, experienced employee. Cost: very high. Impact: negative. Risk: significant.

Section 5

Which Means What™

Having better, more structured adjustment conversations

The Which Means What™ Approach

WMW is NOT about:	WMW IS about:
✗ "Can we fix this?"	✓ Understanding the other person's experience, not their diagnosis
✗ Making the person feel like a problem to be solved	✓ Gathering context that diagnosis cannot give you
✗ Needing to know the diagnosis before helping	✓ Creating psychological safety to disclose without fear
✗ Waiting for OH or a formal request	✓ Giving managers a framework that removes fear of saying the wrong thing

The traditional adjustment conversation starts with the employer needing to understand the diagnosis. WMW starts with the employer wanting to understand the experience. That shift changes everything.

Which Means What™ — The Five Questions

Instead of asking "Are you finding this difficult because of your ___?" we ask:

What	What specifically is harder? What is the actual impact on your work, your day, your experience?
When	When does it happen? Is it all the time, or in specific situations, at particular times of day?
Who	Who is affected, or who is around when it happens? Does it happen with everyone or specific dynamics?
Where	Where does it happen? Is this about a specific space, a remote or hybrid setup, a particular environment?
How	How does it affect you? What does it stop you doing? What have you already tried?

What About People Who Are Not Being Honest?

A legitimate concern — and one that WMW is specifically designed to address.

The concern

Some people will attempt to use a condition or self-reported difficulty to avoid work or performance conversations. This is a conduct issue — not a disability issue. The question is how to identify it without being discriminatory to people with genuine needs.

The WMW answer: "What does that mean to you?"

Someone with a genuine condition can tell you exactly what it means. Where it affects them. When it starts. What triggers it. What they have tried. Someone parroting something they have been told to say cannot answer with the same specificity.

The key principle

Asking "what does that mean to you?" is not challenging or suspicious. It is the only way to understand the person's experience well enough to support them properly.

If they cannot answer — if the response is vague, coached or inconsistent — the conversation shifts naturally into performance management territory. Without you having to accuse anyone of anything.

WMW does not require good faith to work. It simply reveals whether it exists.

WMW™ in Practice — Group Exercise

Scenario: A colleague tells you they are finding it hard to concentrate and complete tasks since returning from a period of sick leave. You do not know what has been going on. Work through the five questions.

What	
When	
Who	
Where	
How	

Possible adjustments — once you understand the answers

- Phased return / adjusted workload
- Flexible start or finish time
- Written meeting summaries
- Quiet workspace or remote option
- Regular supportive check-ins

Implementing Adjustments: The Practical Steps

1 Initial conversation

Meet privately to discuss needs and concerns. Use WMW. Do not start with diagnosis. Start with: what is making this harder?

2 Identify barriers

Use EEES as a lens. Which of the four areas is under strain? Often it will be more than one. Note what you find.

3 Trial adjustments

Implement for 4-6 weeks with clear documentation. Document what is being trialled, why, and what success looks like.

4 Review and adjust

Conduct a mid-trial and final review. Did the adjustment work? Has the need changed? The duty is ongoing.

Ask · Trial · Review · Record — the four steps that make your process both effective and legally defensible.

Section 6

Practical Application

Real scenarios — applying the frameworks to real cases

Discussion: Your Real Scenarios

Think of a colleague, team member or case you are currently aware of. It does not need to be a diagnosed condition. You do not need to know what is going on. That is the point.

What	What specifically is harder? What is the actual impact?
When	When does it happen? Consistently or in specific situations?
Who	Who is affected or around when it happens?
Where	Where does it happen — which space, team or setting?
How	How does it affect them? What have they already tried?

Revisiting the True or False

Go back to your answers from the start. Here are the correct responses.

1. False	The duty is triggered by knowledge of disability — not a formal diagnosis
2. True	Adjustments level the playing field. They are not preferential treatment
3. False	The duty is to consider and implement what is reasonable — not to agree every request
4. False	Cost is a factor in reasonableness but alone it is not a complete justification
5. True	PCPs applied equally can still be discriminatory if they create substantial disadvantage
6. True	The duty to adjust is anticipatory, ongoing and must be reviewed as circumstances change
7. False	The duty covers job applicants, employees and in some circumstances former employees
8. True	An employer can offer a different adjustment — as long as it removes the disadvantage

Your Toolkit from Today

Pull together what you have noticed. These pages are yours to carry forward.

One legal principle I will apply differently

The law I knew — and how it lands differently now I see how tribunals apply it

One PCP I need to look at again

Something that may be creating disadvantage without anyone having named it yet

One conversation I will have differently using WMW

A situation where I would normally have waited — or not started at all

One cultural shift I want to influence

Something we do that makes it harder for people to ask — and how I could change it

You do not need to be a condition expert. You need to care enough to ask the right questions — and now you have the framework to do it.

Thank You

You do not need to be a condition expert.

You need to care enough to ask the right questions.

Matt Gupwell

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Any questions? Bring your real cases. That is what this time is for.