A practical session for managers, HR teams and business partners

Reasonable Adjustments in the Workplace

Matt Gupwell
ThinkNeurodiversity Ltd / Divergence Works CIC

About Matt

17

years learning about neurodiversity

- Consultant, trainer, keynote speaker and author
- Public sector, NHS, police, housing and corporate
- Developer of EEES™ and Which Means What™
- Lived experience of ADHD, autism (PDA profile) and dyslexia

“The aim is to understand the impact on people, and their unique needs not what conditions they have."

£4.58M

Awarded in a single disability discrimination claim.

There is no cap on compensation. A new case has an estimated claimed payout of £75 million.

Wright-Turner v Hammersmith & Fulham 2023

Today's Agenda

Five blocks, two breaks

1	2	3	4	5
The Law	**Case Law**	**EEES™**	**Which Means What™**	**Close**
The legal landscape, without the law lecture	What goes wrong, and how avoidable it is	Spotting what is beneath the surface	Better, more structured adjustment conversations	Your toolkit to carry forward

True or False? (1 of 2)

Show of hands for each statement. The answers come back at the end.

1

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

True | False

2

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

True | False

3

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

True | False

4

Cost alone is enough to justify refusing a reasonable adjustment.

True | False

True or False? (2 of 2)

Show of hands for each statement. The answers come back at the end.

5

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

True | False

6

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

True | False

7

Reasonable adjustments only apply to employees, not job applicants, or former employees.

True | False

8

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

True | False

What Is Disability? The Four-Part Test (s.6)

1 Impairment	2 Adverse effect	3 Substantial	4 Long-term
A physical or mental impairment	On normal day-to-day activities	More than minor or trivial	Lasting, or likely to last, 12 months or more

Deemed disabilities i.e. cancer are covered from diagnosis, whatever the current effect.

The duty is to remove the disadvantage, not to treat everyone the same.

The Three Duties

Equality Act 2010



s.20(3)

PCPs

Any rule, policy or practice, written or unwritten

Fixed hours · Office-only · Verbal-only reviews



s.20(5)

Physical features

A barrier in the workplace itself

Steps · Open-plan, no quiet space · Fixed lighting



s.20(4)

Auxiliary aids

A missing aid/piece of technology or service

Screen readers · Written summaries · Specialist seating . BSL Interpretors

More than one duty often applies at once. What does this person need, in this context, to be on a level footing?

What Does 'Reasonable' Mean?



Effective

Does it actually remove the disadvantage?

The Definition Is Functional, Not Diagnostic

All disabilities, together

Neurodivergent

- ADHD
- Autism
- Dyslexia
- Dyspraxia / DCD
- Tourette syndrome

Mental health

- Anxiety disorders
- Depression
- PTSD
- Bipolar disorder
- OCD

Physical

- Musculoskeletal
- Chronic pain
- Autoimmune conditions
- Cancer from diagnosis
- Sensory impairments

Acquired and other

- Brain injury
- Long COVID
- Stroke
- Conditions in remission
- Past conditions

Ask about the effect on the person, not the label.

It Is Never Just One Thing

ADHD + anxiety

One of the most common combinations in adults

MSK pain + depression

Chronic pain and low mood travel together

PTSD + anxiety

Trauma conditions almost always co-present

Long COVID

Fatigue, brain fog, anxiety and joint pain, often together

Autism + ADHD (AuDHD)

The two frequently co-occur

Dyslexia + dyspraxia

Often co-occur, compounding processing difficulties

Ask about experience, not diagnosis. Which Means What™ is built for this.

Ask About Effect, Not Cause

Two questions to swap before we look at the cases

Do not ask	Ask
✗ What can they still do?	✓ What does it stop them doing, or make harder?
✗ What is causing it?	✓ Is that effect more than minor or trivial?
✗ Does it have a recognised label?	✓ Is it long-term, or likely to be?

Break

10 minutes

.

Madden v Commissioner of Police of the Metropolis

Case 2305065/2024 · Spot the failure

The issue

Inappropriate comments overheard being made to three female colleagues. The Investigating Officer recommended misconduct.

The Appropriate Authority escalated without explanation to gross misconduct.

The context

His ADHD medication was ineffective because of blood pressure complications. This increased risk of impulsivity.

22 years of unblemished service.

TABLE DISCUSSION

What should the investigating panel have done before escalating?

Madden: What the Tribunal Found

Case 2305065/2024

UNFAIR DISMISSAL SUCCEEDED · SECTION 15 SUCCEEDED

ADHD made social cues hard to read and impulsive remarks when anxious more likely. Dismissal was disproportionate after 22 years of clean service.

What went wrong

Ferraro v Department for Work and Pensions

Case 2301248/2024

CLAIM SUCCEEDED · BOTH ADJUSTMENTS

A chronic bowel condition. She asked for hybrid working and a height-adjustable desk.

Both were refused on operational and cost grounds, without evidence.

What went wrong?

Williams v Royal Mail Group Ltd

Employment Tribunal, liability judgment October 2025

CLAIM SUCCEEDED · RESOLVED AT TRIBUNAL

An autistic postal worker had worked 05:00 to 12:45 for 16 years. During a period of sickness his round was removed, Royal Mail applied its standard 06:45 start and cited the Universal Service Obligation and efficiency. The worker requested an 05:00 or latest 06:00am start citing disruptions to routine and transitions impacted by autism.

What went wrong

Linsley v Commissioners for HMRC

UKEAT/0150/18/JOJ · December 2018 · Spot the failure

The issue

Ulcerative colitis. Six Occupational Health reports over several years recommended a dedicated parking space due to anxiety and urgency of use of toilets.

This had been provided at other HMRC locations. None was provided at new location.

The context

Her managers did not know HMRC's own national parking policy.

They arranged proximity to toilets on condition of "if she couldn't park near the building" instead.

TABLE DISCUSSION

What went wrong and how could it have been avoided?

Linsley: What the EAT Found

UKEAT/0150/18/JOJ · December 2018

APPEAL UPHELD ON THREE OF FOUR GROUNDS · REMITTED

The tribunal found HMRC had breached its own policy yet still dismissed the claim. The EAT found errors of law.

What went wrong

Effect, Not Cause: Aderemi and Walker

Aderemi UKEAT/0316/12/KN (December 2012) | Walker UKEAT/0097/12 (February 2013)

Aderemi v London and South Eastern Railway Ltd

EAT ALLOWED THE APPEAL

What went wrong

Severe back pain. The tribunal asked what he could still do.

What the EAT said

The test is what he cannot do.

Walker v Sita Information Networking Computing Ltd

EAT FOUND HIM DISABLED

What went wrong

Many conditions, no clear medical cause. Made harder by increased weight gain. The judge asked what was causing them.

What the EAT said

No cause or label needed. The effect is what counts.

Do not ask what someone can still do, what caused it, or whether it has a label. Ask what the effect is.

When Employers Win (2 of 2)

Iqbal v Mazars LLP

Case 3201764/2020

Trainee tax adviser on an informal improvement plan.

He raised possible dyslexia, then resigned.

Claim dismissed

Prompt assessment, a supportive plan and tools already in place. Disability threshold not met.

Power v Jaguar Land Rover Ltd

Case 2401846/2022

Dismissed for violent, threatening comments. ADHD was diagnosed only after dismissal.

Claims dismissed

Fair process on a single incident. No specifics of daily impact given despite three chances.

Manjra v Department for Work and Pensions

Case 2403387/2024

Four conditions already accommodated. She then argued she was autistic, with no diagnosis.

Autism not established. Other claims proceed to a full hearing.

Accepted conditions kept being accommodated. Reported symptoms fitted those conditions.

Not every letter confirming a diagnosis carries equal weight. The test is evidential.

What Winning Employers Had in Common



Adjustments in place and reviewed

Extended and kept under review in good faith



Occupational health, not assumptions

Referrals made once health was raised



Roles kept separate

Investigator, decision-maker and appeal officer



Evidence on file

CCTV, dated records, policies shown as read



Supportive and proportionate first

Informal plans before formal discipline

A documented history, a separated process and hard evidence let a tribunal tell misconduct from disability-related behaviour.

Six Failures That Keep Appearing

Across physical conditions, neurodivergence and mental health

- **Waiting for a diagnosis**
- **Asserting without evidencing**
- **No documentation**
- **Withdrawing adjustments without review**
- **Treating conduct and disability as separate**
- **Ignoring informal disclosure**

Compensation is uncapped

£4.58M

Wright-Turner v Hammersmith & Fulham 2023

£2.57M

Barrow v Kellogg Brown and Root

£470K+

Borg-Neal v Lloyds Banking Group 2023

Discussion: PCPs in Your Organisation

Bring real examples. Names stay in the room.

Q1 Which PCPs have you never examined for disadvantage? Think of written policies and unwritten expectations.

Q2 Which process suits most people but would structurally disadvantage someone with anxiety, PTSD, chronic pain or a neurodivergent condition? Name one.

Q3 If a tribunal asked you to justify it tomorrow, what would you say? Is it necessary and proportionate?

The goal is to find the risk before it becomes a claim.

Break

15 minutes

When we return: what is beneath the surface?

Supporting People with EEES™

Four universal human lenses. Not diagnostic categories.

E

Executive Function

Planning, prioritising, initiating, sequencing, working memory.

E

Emotional Regulation

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

E

Environment

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

S

Sensory Processing

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

E

Executive Function

Planning, prioritising, initiating, sequencing, working memory, managing time, following instructions, managing impulsivity. The cognitive architecture of getting things done.

Under strain:

Missed tasks, difficulty starting, appearing disorganised despite effort, appearing frustrated or defensive when failings are discussed.

E

Emotional Regulation

The ability to manage emotional responses in real time, particularly under pressure or uncertainty. Not being able to “select” the appropriate response for the situation. Over or under reacting to situations and input.

Under strain:

Disproportionate responses, emotional flatness, difficulty recovering from setbacks. Struggles with perceived feelings of rejection, Seeing everything as threat.

E

Environment

The physical and social conditions in which work takes place including layout, noise, predictability, social demands, conflicts of expectations, perceived threat or challenge, feeling unsafe or overwhelmed with no explanation.

Under strain:

Avoidance, reduced performance in specific settings, inconsistent output, disruptive behaviour, disengaged appearance, fear, stress, anxiety, impaired executive functions.

S

Sensory Processing

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

Under strain:

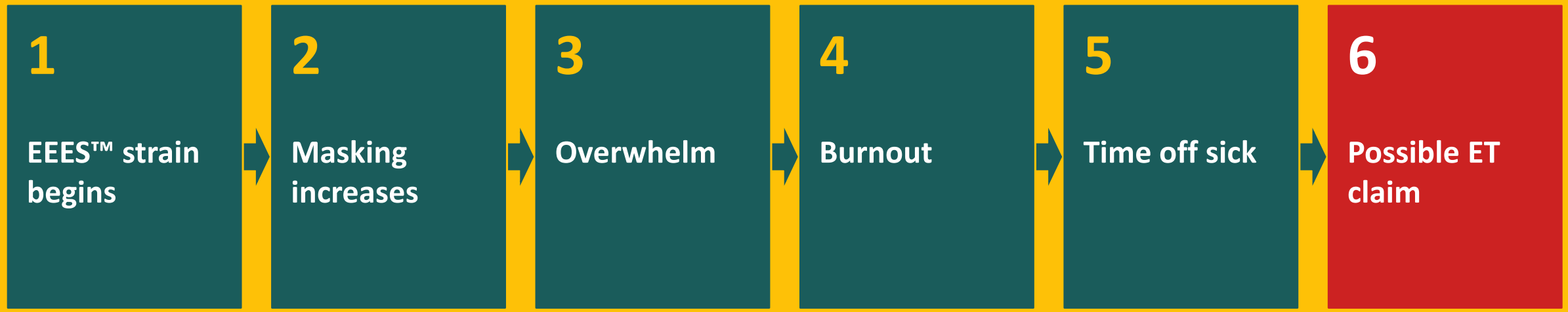
Fatigue, overwhelm, difficulty concentrating, physical discomfort affecting focus, shutdown to certain stumuli.

The EEES™ message

If you notice 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.

Early or Late?

The cost of waiting

Intervening early

- 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.

Waiting until crisis point

- 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.

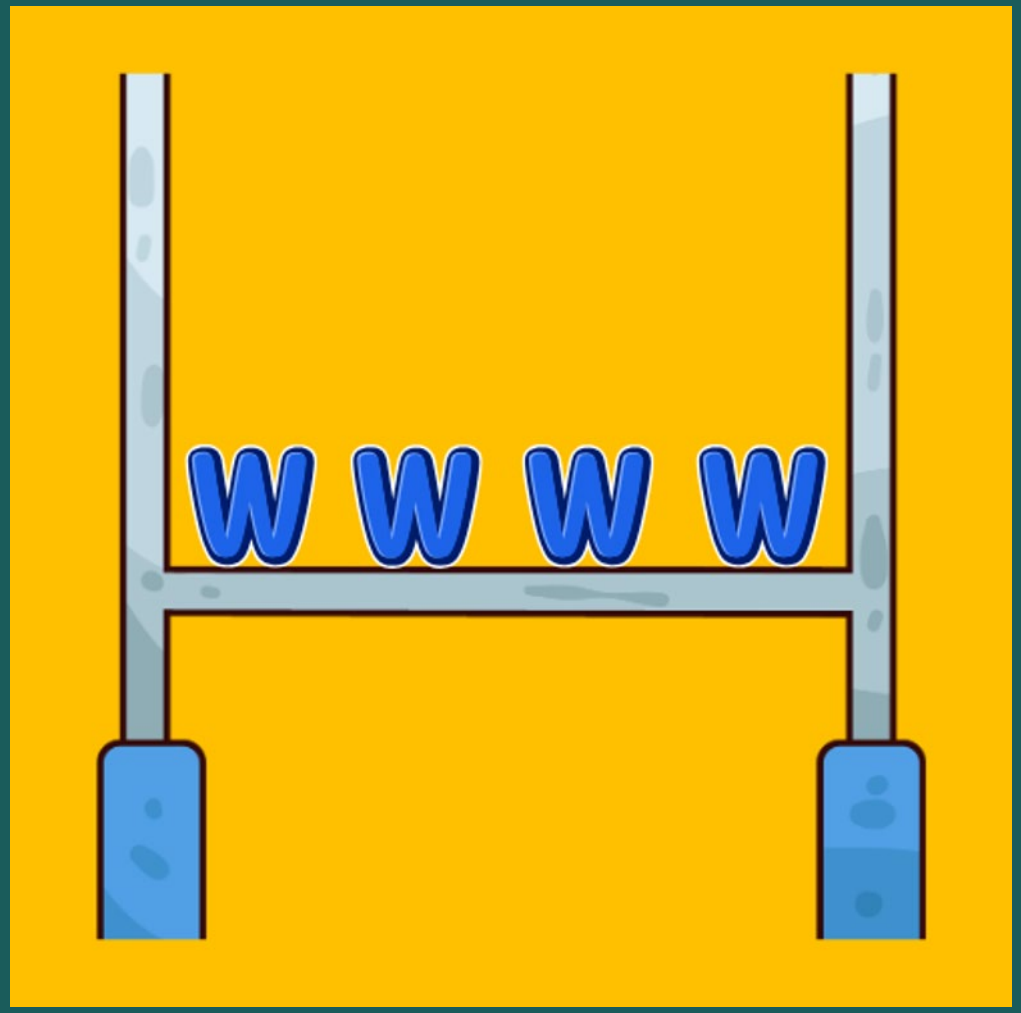
Group Exercise: Map a Real Case to the Four Lenses

Think of a time when someones performance has changed. You do not need to know why. Which lenses might be under strain?

E Executive Function	E Emotional Regulation	E Environment	S Sensory Processing

Then: what would the conversation sound like, rather than a performance review?

Which Means What™



From understanding the diagnosis to understanding the experience

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	✓ A framework that removes fear of saying the wrong thing

The traditional conversation starts with the diagnosis. WMW™ starts with 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? How does it make you feel? How have you tried to adapt or cope?

What about people who are not being honest?

WMW™ stays the same whether we're sure or not.

But it will reveal whether real need exists.

Implementing Adjustments

Ask · Trial · Review · Record

1 Ask

Meet privately. Use WMW™. Then use EEES™ as a lens: which of the four is under strain?

2 Trial

Try it for 4 to 6 weeks. Note what, why, and what success looks like.

3 Review

Mid-trial and final review. Did it work? Has the need changed?

4 Record

Keep the record. Without it you cannot prove you considered it.

Four steps that make your process both effective and legally defensible. The duty is ongoing.

Back to the True or False

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.

1

One legal principle I will apply differently

The law I knew, and how it lands now I have seen how tribunals apply it

2

One PCP I need to look at again

Something that may be creating disadvantage without anyone having named it

3

One conversation I will have differently using WMW™

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

4

One cultural shift I want to influence

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

Remember

You do not need to be a condition expert. You need to care enough to ask the right questions.

Thank You

Matt Gupwell

ThinkNeurodiversity Ltd / Divergence Works CIC
thinkneurodiversity.co.uk

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