



REASONABLE ADJUSTMENTS REPORT
NOVEMBER 2024

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BACKGROUND

The Committee launched a reasonable adjustment survey at its conference in December 2023. The aim was two-fold:

- 1) to collect disabled workers' and trade union reps' experience of requesting reasonable adjustments in the workplace.
- 2) to inform a practical toolkit looking at what reasonable adjustments are, what the law is and what are your rights.

Despite the limited response, the results do provide a perspective of a number of disabled workers and trade union reps.

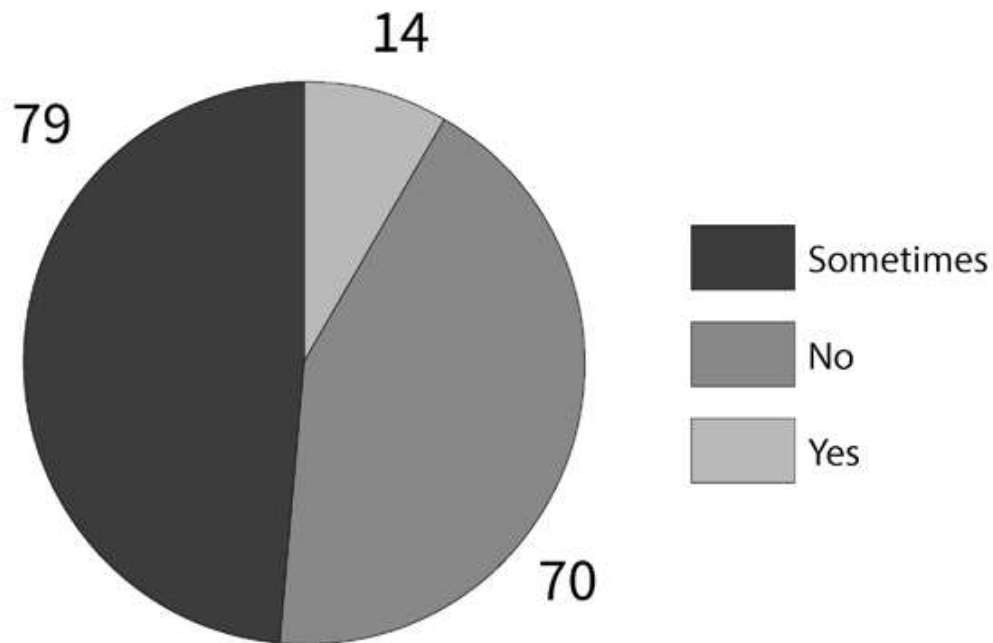
Thanks to EIS and USDAW, there were a large share of responses from the teacher/education (76) and retail sectors (31).

SURVEY FINDINGS

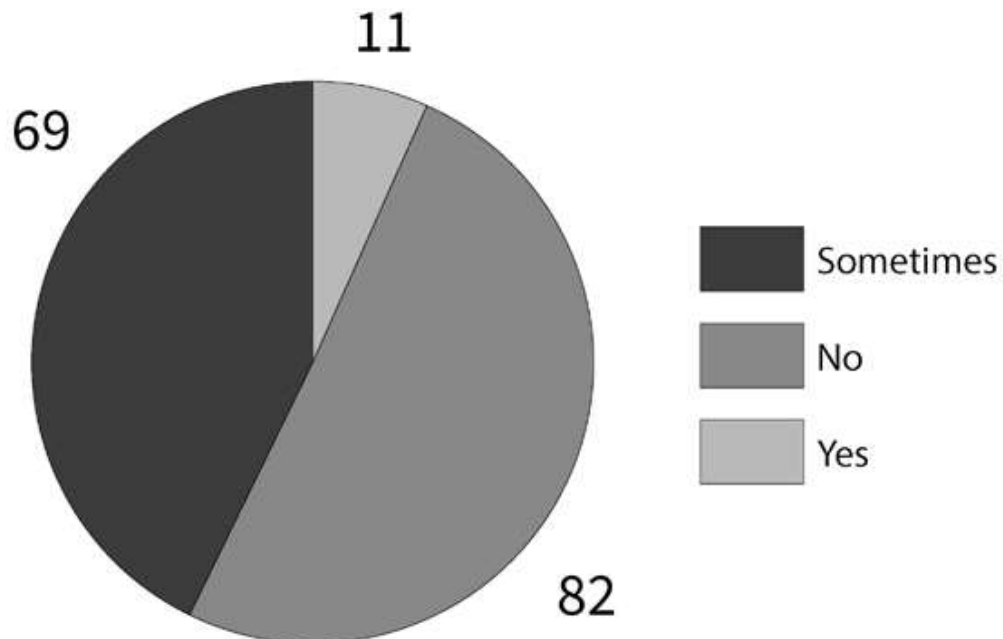
A summary of the findings suggest:

- Only a small proportion (9%) of respondents think reasonable adjustments are fully understood by members.
- Only a small proportion (7%) of respondents think reasonable adjustments are fully understood by employers.
- Two thirds of respondents had been involved in negotiating a reasonable adjustment request for members in the last year.
- Half of respondents had experienced challenges negotiating/securing reasonable adjustments for members.
- 40% of respondents had positive outcomes from requests, 27% had not, and 33% sometimes had depending on the request.

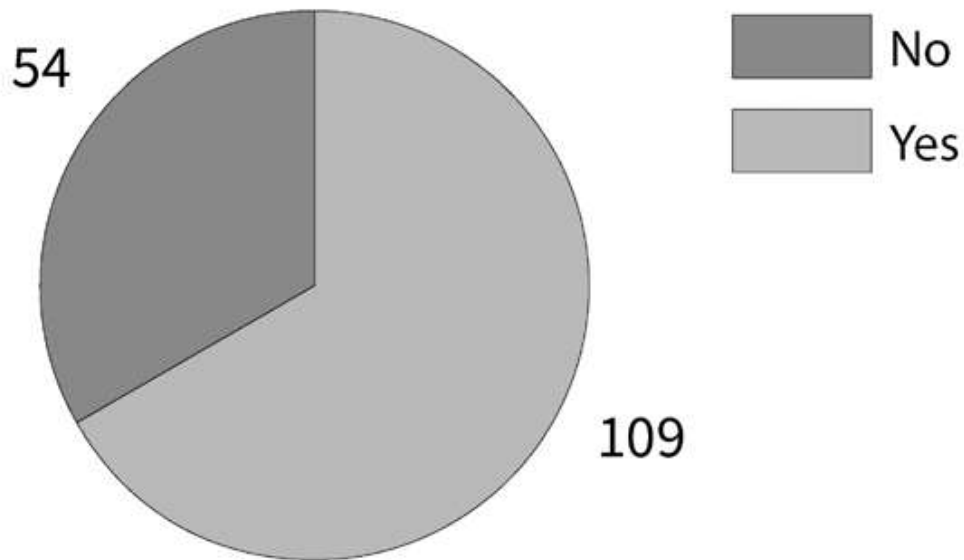
Do you think employees/members understand their right to request reasonable adjustments under the Equality Act (2010)?



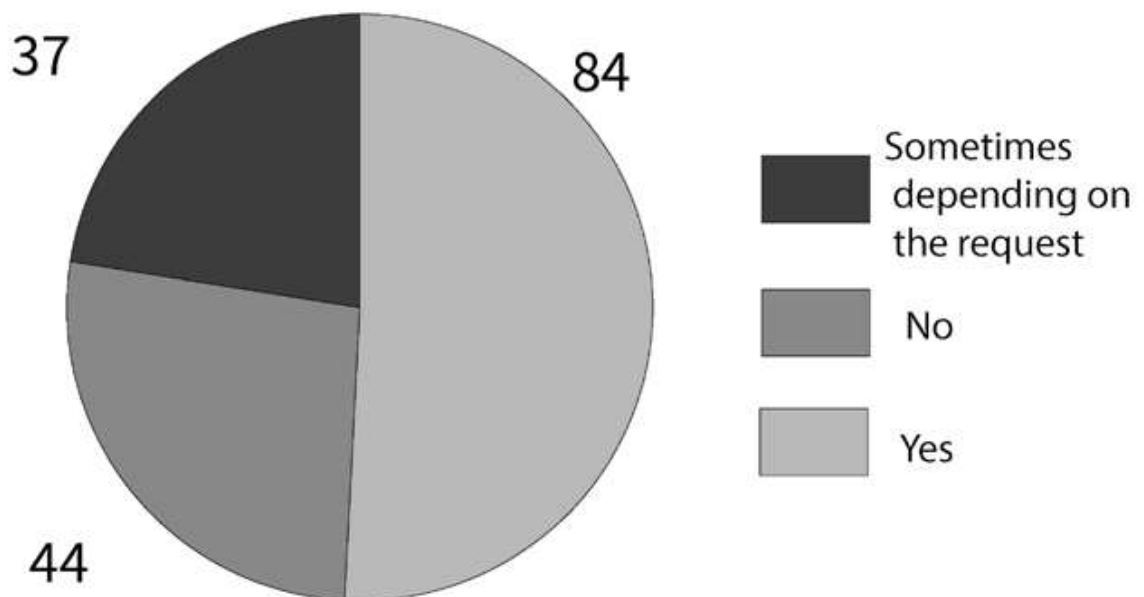
Do you think workplace reasonable adjustments are understood by employers?



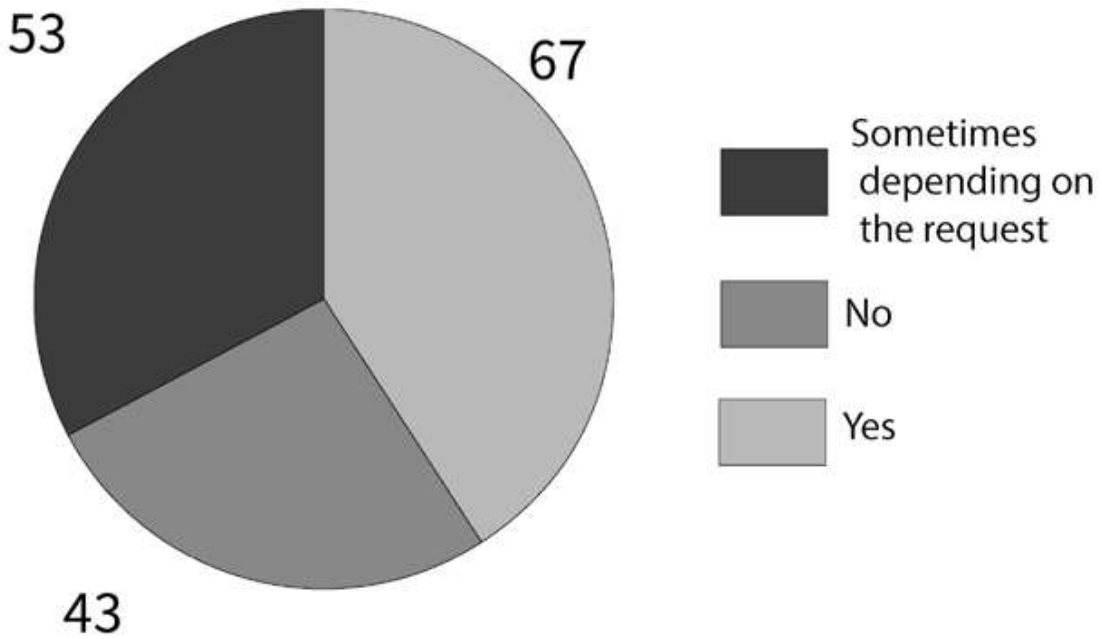
Have you been involved with negotiating a reasonable adjustment request in the last year for a member/members?



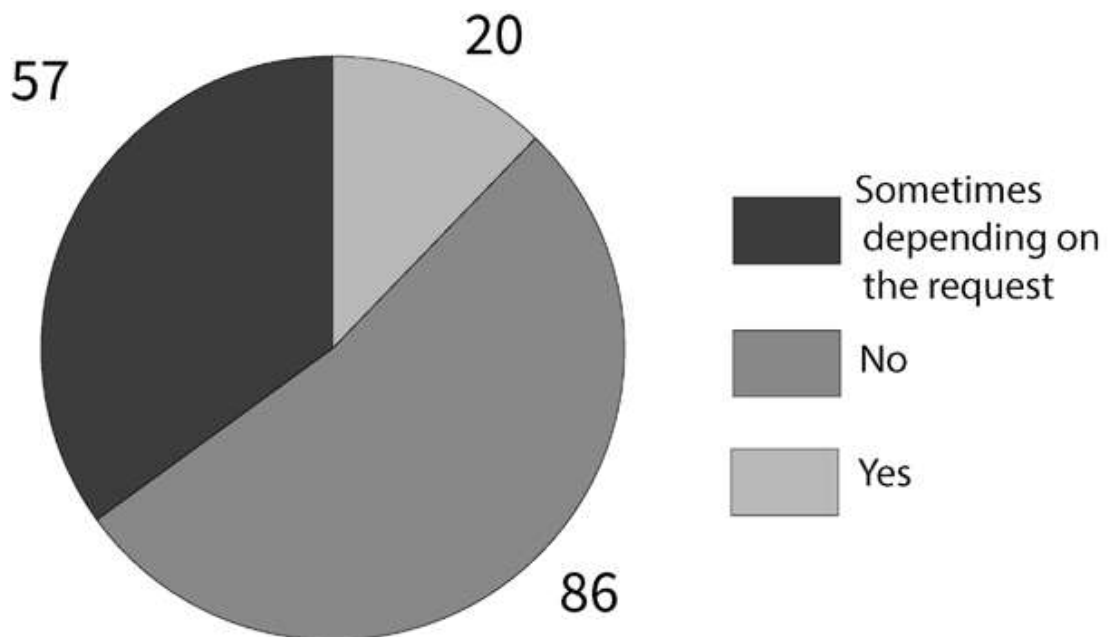
In the last year, have you experienced challenges negotiating/securing reasonable adjustments for a member/members?



Have you had any positive outcomes when negotiating a reasonable adjustment in the workplace?



In your experience, do you think employers put agreed/requested adjustments in place timeously and efficiently?



EXAMPLES OF WINS

While the results indicate a lack of understanding and poor employer practice on reasonable adjustments, the survey also highlights the wins that trade union reps achieve day in, day out:

“I managed to get a school to agree to change a teacher’s timetable to allow them to access health services on a weekly basis.”

“Negotiated more time working from home for an autistic staff member.”

“Reasonable adjustment passport implemented. All staff members working an event should be consulted regarding the mask policy for that event.”

“I received support to access my treatment, and my chronic illness would no longer trigger stressful absence management meetings.”

“Lightweight laptop with shoulder bag to reduce pressure on arms and hands.”

“I am now getting the neurodiversity assessment I have never had.”

“Female hygiene period products being made available in crew toilets, and accommodated shift patterns to mitigate effects of menopause.”

“NHS Lothian use the data collected from bad practices around reasonable adjustments to inform agreed policies /guideline and disability passport. Securing a functioning laptop for a dyslexic member.”

“My employer put in some helpful reasonable adjustments...including removal from after school activities, lunch and break duties and a different approach to Parent Evenings as a Primary School Teacher.”

“Allowing me to have blocked off time one afternoon a week so I can work from home and leave school early, rather than wait to see each week if I am taken for cover.”

“Allowing teacher to not teach PE.”

“Flexible working policy. Introduction of Neurodiversity & Menopause Groups.”

“One person had Dyslexia Software installed on their PC.”

“Shift pattern changes, allowing an anxious employee (cleaner) to wear headphones during a shift.”

“Thanks to information from the STUC Disabled Workers Committee, I was able to spearhead an initiative for a Reasonable Adjustments Passport at my workplace, which has now been fully launched and integrated into line management tools.”



THE LAW

All employers have a legal duty under the Equality Act 2010 to proactively make reasonable adjustments to remove, reduce or prevent any disadvantages that disabled workers face.

The Equality Act 2010 (Amendment) Regulations 2023 brought about a change in the definition of disability. It amended the definition within the Act which provides that, “a person’s ability to carry out normal day-to-day activities” now includes “the person’s ability to participate fully and effectively in working life on an equal basis with other workers”. This is effective from 1 January 2024.

The law recognises that to secure equality for disabled people, work may need to be structured differently, support given, and barriers removed. It means that in certain circumstances disabled people may be treated more favourably than non-disabled people to ensure equality, but one disabled person cannot be treated more favourably than another disabled person.

An employer who fails to meet their legal duty under the Equality Act 2010 to make reasonable adjustments is in breach of the law and could be taken to an employment tribunal.

Public sector employers have an additional legal duty to consider or think about how their policies or decisions affect people who are protected under the Equality Act. This public sector equality duty will include public authorities considering how their policies affect disabled employees and taking steps to mitigate any adverse impact.

CHALLENGES & BARRIERS

It is very clear from the survey that trade union members and their employers do not fully understand what constitutes a reasonable adjustment. That is understandable as what one worker may require and consider reasonable can vary enormously, even if their disabling condition has the same diagnosis.

The challenges don't end there as half of the respondents had experienced difficulties in negotiating and securing reasonable adjustments. The Wins section above shows what has gone well and it may assist reps and members to explain what a reasonable adjustment is through the use of examples.

Reasonable adjustments apply to every aspect of work - the application process, interviews, starting a new job or role, or promotion to a different job. They must also be reassessed when a condition progresses, changes or a new condition is diagnosed. Consideration should be given to redeployment if the current job isn't suitable anymore.

The TUC has an excellent guide "[What is meant by 'reasonable adjustments' for disabled workers?](#)" An extract is below:

"The type of adjustment required must be decided on an individual basis, but the Equality and Human Rights Commission's Code of Practice on the employment provisions of the Equality Act gives guidance on reasonable adjustments that an employer may typically have to make.

These include:

- allowing the disabled person to be absent during working hours for rehabilitation, assessment or medical treatment.
- acquiring or modifying equipment.
- altering the disabled person's working hours.
- transferring the disabled person to fill an existing vacancy.
- making adjustments to premises, such as improving access.
- allocating some of the disabled person's duties to another person.
- assigning the disabled person to a different place of work.

- giving the disabled person additional training.
- providing a reader or interpreter.
- providing support workers; and
- modifying instructions and reference manuals.”

This is further illustrated in a UK Government publication named [Reasonable adjustments for workers with disabilities or health conditions](#)

Employers must make reasonable adjustments to make sure workers with disabilities, or physical or mental health conditions, are not substantially disadvantaged when doing their jobs.

This applies to all workers, including trainees, apprentices, contract workers and business partners.

Reasonable adjustments include:

- changing the recruitment process so a candidate can be considered for a job.
- doing things another way, such as allowing someone with social anxiety disorder to have their own desk instead of hot-desking.
- making physical changes to the workplace, like installing a ramp for a wheelchair user or an audio-visual fire alarm for a deaf person.
- letting a disabled person work somewhere else, such as on the ground floor for a wheelchair user.
- changing their equipment, for instance providing an adapted keyboard if they have arthritis.
- allowing employees who become disabled to make a phased return to work, including flexible hours or part-time working.
- offering employees training opportunities, recreation and refreshment facilities.

The survey has highlighted that many employers are resistant to reasonable adjustments citing cost as a barrier. An adjustment can be reasonable, even though it costs the employer money.

There is support available towards the cost of some adjustments, for example via the Government's Access to Work scheme. You can read more about the Access to Work scheme on the UK Government website at: <https://www.gov.uk/access-to-work>

Access to Work will not pay for reasonable adjustments per se. These are the changes your employer must legally make to support you to do your job. Access to Work will advise your employer if changes should be made as reasonable adjustments.



CONDITIONS

It is apparent from the responses that physical conditions are better understood than other conditions, particularly those experienced by neurodiverse workers. The other area where a higher level of difficulties was expressed were amongst those experiencing the menopause. There were also a number of responses mentioning pregnancy.

It is worth reminding ourselves what a qualifying condition is. This can include, for example:

- a physical disability, for example if you're hard of hearing or use a wheelchair.
- a learning disability or related condition, for example if you have Down's syndrome.
- neurodiversity, like ASD, ADHD or dyslexia
- an illness such as diabetes or epilepsy
- a temporary condition, like a broken leg
- a mental health condition, for example anxiety or depression

Section 6(1) of the Equality Act provides that a person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The Amendment Regulations mentioned in The Law section above inserts a new paragraph (5A) into Schedule 1 of the Equality Act. This explicitly provides references in section 6(1) to a person's ability to carry out normal day-to-day activities includes a person's ability to participate fully and effectively in working life on an equal basis with other workers. This is a potentially broader definition than before.

What 'substantial' and 'long-term' mean:

- 'substantial' is more than minor or trivial, e.g. it takes much longer than it usually would to complete a daily task like getting dressed.
- 'long-term' means 12 months or more, e.g. a breathing condition that develops as a result of a lung infection.

There are special rules about recurring or fluctuating conditions, e.g. arthritis.

A progressive condition is one that gets worse over time. People with progressive conditions can be classed as disabled.

However, you automatically meet the disability definition under the Equality Act 2010 from the day you're diagnosed with HIV infection, cancer or multiple sclerosis.

There's no need to wait for a year to elapse to ask for a reasonable adjustment, neither is there a requirement for a formal diagnosis of a condition before making an approach for an adjustment. If you don't have a diagnosis, you still need medical evidence to show your impairment has a substantial and long-term adverse effect on your ability to do day-to-day activities. How employers respond will vary and it's clear from the survey that some of the difficulties lessen if a formal diagnosis has been reached.

The following examples come from a [UK Government guide](#) on your rights under the Equality Act and are a useful illustration.

Example 1:

You suffer from depression, so it's very hard for you to make decisions or even to get up in the morning. You're forgetful and you can't plan ahead. Together, these factors make it difficult for you to carry out day-to-day activities. You've had several linked periods of depression over the last two years and the effects of the depression are long-term. So, for the purposes of the Equality Act, you're defined as a 'disabled person'. Before the Equality Act, you might not have been able to get disability discrimination protection.

Example 2: Your employer brings in a new shift pattern which means that everyone has to work fewer days, but longer days. You have a disability that means you're exhausted after two long days of working. So the new shift pattern puts you and other people who have the same disability as you at a disadvantage. Your employer will have indirectly discriminated against you if it can't justify the new shift pattern.

Example 3: Because of your disability, you might need to take more leave from work than people you work with. Your employer must not treat you unfavourably because you are off work, as long as it knows that you have a disability. However, your employer may be able to justify anything it does, and if its action can be justified then, it won't be against the law.

There's guidance on conditions that aren't covered by the disability definition, e.g. addiction to non-prescribed drugs or alcohol.

The Equality and Human Rights Commission has a short video on [the Menopause and Discrimination](#).

The full guidance can be found on the [EHRC website](#).

And, People Management has also written [an article on avoiding menopause discrimination](#) that is a useful short read.

Pregnancy in itself is not considered a disability but there are a range of other protections for pregnant workers covered by the Equality Act. Useful guidance can be found on the [Citizens Advice website](#).

PASSPORTS

The survey cites some good examples of having negotiated a scheme to provide workers with disability passports. The TUC and GMB collaborated on guidance and details, together with a video from the CWU, can be accessed on the [TUC website](#).

This may be an area where trade union representatives can work with employers to implement such a scheme and reduce the burden on workers. When the adjustments are agreed, the passport is signed by everyone. The document can be reviewed at regular intervals and means disabled people don't have to explain their requirements every time their line manager changes, or they change roles within their organisation.

ROLE OF TRADE UNIONS

Trade Unions have an important role in supporting members. The TUC has a [range of resources](#) to help reps and members on all areas of disability. All unions have workplace reps, sometimes referred to as Stewards. Some unions have distinct Equality reps roles and Health & Safety reps. All reps are able to access resources to help them understand the issues involved.

Many affiliates will also have a range of resources that will assist their members and reps. The Fair Work agenda is also something that reps can rely upon to successfully bargain around and improve workers experience when seeking reasonable adjustments. Scottish Hazards have produced a [useful guide](#).

The Fair Work Convention [reports](#) that there are four indicators where Scotland currently performs poorly and where there are large gaps to the leading Fair Work Nation. These are skills utilisation, collective bargaining, involuntary non-permanent work and the disability employment gap. There remains substantial progress to be made for disabled workers.

CONCLUSION

The STUC Disabled Worker's Committee survey, however limited the response, is absolutely clear where the problems and barriers lie. This publication seeks to provide reps with assistance in some of the areas the survey highlighted were problematic and is a useful guide to finding additional information and resources.

A survey on reasonable adjustments will run again at a future date to see if there has been any improvement in experiences. It will be interesting to see how or if the change in legal definition has impacted on disabled workers.