

Lauren Fullerton¹ and Arran Dowling-Hussey² look at one of the most significant special educational needs and disabilities (SEND) cases from 2024.

SEND- Reasonable Adjustment: What Constitutes Reasonableness?

Reasonable Adjustment: What Constitutes Reasonableness?

In the case of **A Multi Academy Trust v RR [2024] UKUT (AAC)**, the Upper Tribunal addressed the duty of reasonable adjustment under the Equality Act 2010, specifically sections 20 and 85. This legislation mandates that public sector organizations must modify their approaches or provisions to ensure that services are accessible to disabled individuals as well as to the general public. Reasonable adjustments can encompass physical modifications to buildings, such as the installation of ramps, as well as changes to policies, procedures, and staff training.

In the decision of **A Multi Academy Trust v RR [2024]**, the Upper Tribunal explicitly examined these amendments as they pertain to schools, a specific issue that had not previously been extensively analysed judicially. The case involved ‘SR’, a pupil at a special school, whose parent had lodged a discrimination claim. While most of the claims were dismissed by the First-Tier Tribunal, one claim concerning the absence of a documented transition plan to the school was upheld as discriminatory. The Equality Act necessitates reasonable adjustments for pupils with an Education, Health and Care Plan (EHCP). This requirement applies uniformly, regardless of whether the pupil attends an independent, mainstream, or special school, although the type of school may necessitate the use of a hypothetical comparator.

Appeal to the Upper Tribunal

The Multi Academy Trust appealed the First-Tier Tribunal’s decision, arguing that errors of law had been made and that the decision lacked adequate reasoning. Specifically, the reasonable adjustment duty under section 20 of the Act, which typically involves overcoming disadvantages to the pupil or person concerned, is modified in a school context. Here, the relevant provision, criterion, or practice (PCP) requiring adjustments pertains to education, access to benefits, facilities, or services.

In **A Multi Academy Trust v RR [2024]**, the Upper Tribunal affirmed that a transition plan to the school is related to education, thereby invoking the amendments. The Tribunal, referencing other cases that considered similar provisions in the Equality Act 2010,

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confirmed that when these amendments apply, Parliament's intention was for the disadvantage of the PCP to affect a group of pupils, not just the individual pupil concerned.

Implications of the Decision

When a reasonable adjustment claim is brought concerning educational provision or services or benefits provided to pupils, parent claimants must clearly identify the group of pupils disadvantaged by the PCP, beyond just their own child. The Upper Tribunal acknowledged that identifying this group could be challenging in some cases and that the evidential burden on parent/pupil claimants might be more onerous, given the need to demonstrate disadvantage to a broader group of pupils.

The Upper Tribunal overturned the First-Tier Tribunal's decision and referred the case for reconsideration, agreeing with the appellant school that there had been an error of law and a lack of sufficient reasoning.

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