

A Report into the Magistracy and Disability – Survey and Research Findings

INCORPORATING THE MAGISTRATES WITH DISABILITIES SURVEY RESULTS

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Report into the Magistracy and Disability

Preface

This Report into the Magistracy and Disability follows on from Lady Justice Hallett's (Judicial Office, 2013) issuing of equality and practice directions to the Judiciary in response to the enactment of Equality Act (2010). They include an announcement that 'we [the Judiciary] now adopt the Social Model of Disability'¹ when exercising justice for a disabled person in the course of any judicial proceedings. Lady Justice Hallett goes on to emphasise the need for magistrates, judges or any judicial office-holder 'to use their ability to recognise disabilities when they exist, identify the implications, know what powers they have to compensate for the resulting disadvantage and understand how to use these powers'. Her Ladyship, directs 'if any of the parties, witnesses or advocates involved in court or tribunal proceedings has a disability which may impair their ability to participate, it is important that this is identified at as early a stage as possible. Steps can then be taken to ensure that any hearings take place in accessible rooms and suitable facilities are available. *The advice in the Equal Treatment Bench Book as regards dealing with parties to proceedings with disabilities is important advice which every judge and justice is under a duty to take into account when dealing with such parties*'². This is the background by which this short research project should be contextualised.

The research, analysis and findings in this report (including the survey of 252 magistrates with disabilities) should influence both the future of recruitment and retention of magistrates. In order for the *lay* magistracy to renew its legitimacy as a summary justice jurisdiction representative of the local community, all magistrates, judges, advisory committees and court staff need to follow the leadership of Lady Justice Hallett to embrace judicial change and implement policies which proactively engage and attract more persons with a disability from our local communities.

The context of adopting the social model of disability is not always apparent to individual magistrates or judges. Tony Blair³, as Prime Minister, sought to increase the participation of disabled people in public life through a shift in paradigm. He observed that 'getting a job or education, volunteering for your community, travelling between home and work, going for a drink or to the cinema with friends are activities most of us take for granted. But for too many disabled people these ordinary aspects of life remain too difficult to achieve. Often opportunities to participate in public life are entirely out of the reach of disabled people'.

That is why successive Lord Chancellors have asked the Judiciary and in particular the magistracy to look at what more can be done to improve disabled peoples' opportunities to sit on the bench, to improve the quality of life experience and strengthen our society as a result of their participation. Despite considerable progress, disabled people are still experiencing disadvantage and discrimination. Barriers – in attitudes, the design of buildings and policies, for example – still have to be overcome by disabled people, reducing opportunities and preventing them reaching their potential. Too many services are organised to suit providers rather than being personalised around the needs of disabled people. This is not a marginal issue. Up to one in five British adults are disabled and can find themselves cut off from the opportunities enjoyed by others, and our economy and society, too, lose out if we don't use their talents to the full. The magistracy needs to play its part by investing in, recruiting and retaining more disabled people to address chronic under-representation.

This report therefore sets out an ambitious vision for identifying the barriers faced by disabled magistrates in post and to provide ideas, based on Lady Justice Hallett's philosophy of what is possible, so that all magistrates, judges, advisory committees, politicians and disability organisations can do their bit to achieve the transformation in disabled people's opportunities to volunteer to sit on benches and take part in public life. This project was never intended to provide a definitive analysis of all magistrates with disabilities experiences but to provide an evidence based insight and a snapshot of perception to encourage the Judiciary to address a chronic under-representation of disabled people in the magistracy.

¹ *The Equal Treatment Bench Book; Judicial Office; 2013; Page 67 paragraph 6*

² *R (on the application of King) v Isleworth Crown Court [2001] All ER (D) 48 (Jan), CA*

³ *'Improving the life chances of disabled people'; Tony Blair; Cabinet Office; 2005;*

<http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/cabinetoffice/strategy/assets/disability.pdf>

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Foreword

I am delighted to be asked to set out the context of this survey report within the broader sphere of improving the representation of persons with disabilities across the professions and public life. I practice as a barrister with disabilities from Cloisters Chambers and specialise in the field of discrimination law across the range of protected characteristics such as age, race, disability, gender and sexuality.

I well understand the value of this type of report has on influencing the decision makers, bringing about a benefit to society as a whole and to better opportunities to disabled people wishing to serve as magistrates in particular. The judicial and quasi-judicial professions (and well as other legal and other professions) should do more to survey and report on how well other people with disabilities are represented, supported and developed in their careers. In my view, this should be the paid judiciary, tribunal members, The Bar Council, General Medical Council, Parliament, Local Councillors, regulators, The Law Society, The Solicitors Regulatory Authority, police officers, prison officers, independent monitoring board of prisons and offices of independent inspectorates. This is part of what people with disabilities being able to play a full part in public life means.

This is a comprehensive analysis of the problem, with a balanced and methodical presentation of the results and recommendations for improving the chronic underrepresentation of disabled persons sitting as magistrates. Disabled people want to help society by sitting as magistrates – help them by taking steps to increase their representation and their support by the powers that be.

John Horan

Report into the Magistracy and Disability

Abstract

This report contains the survey themes and perceptions analysis (SR/TPAR) consolidated from responses from the 'magistrates with disabilities survey' data (Thematic and Perceptions Analysis Dataset (TPAD)). *This included a cohort study of 252 magistrates with disabilities who voluntarily responded to the survey.* Survey respondents reported an average judicial officer career of 12.7 years with 80.6% confidently identifying as being statutory disabled under the Equality Act 2010. The Judicial Office reported the existence of 906 known magistrates with disabilities out of 21,704 with a representation rate of between 3-4%. The Impairment rate profile reported within the sample included arthritis orthopaedic at 43.6%, hearing at 24.8%, neuromuscular-skeletal at 24.4%, respiratory at 12.8% and heart related at 11.6%. 43.8% of the cohort identified effective productivity requirements through making adjustments and adaptations to premises or acquiring equipment. Despite this, the survey revealed that operationally that just 23.7% of the cohort had received partial implementation of the necessary adjustments; resulting in up to a 39.8% productivity deficit between effective and operational productivity. Only 9% of the cohort actually reported the implementation of full reasonable adjustments. The cohort recorded a range of 229 – 436 incidences of potential unlawful disability discrimination in judicial office with the principal experience of disability discrimination by a failure to make reasonable adjustments at 28.3%. Roughly 30% of the sample of magistrates with disabilities had no knowledge or understanding of any the legislation or judicial policies relating to disability equality. Analysis of previously published judicial recurring costs analysis and potential future business benefits highlights a positive case for investment and potential for savings by addressing the productivity deficit, making efficiencies, and protecting against liabilities. This study sets out a framework for increasing the representation of magistrates with disabilities to better reflect the local community that we, voluntarily, seek to serve.

Limitations

The magistrates with disabilities survey never intended to be a definitive study of the effect of judicial policies on the retention of magistrates with disabilities. The survey results (252 participants) provide a limited snapshot of disabled magistrates' participation based on the social model of disability. The research analysis is provided to illustrate the potential for positive change and the recommendations are indicative of the emerging themes to be addressed in order to bring about improved disabled representation and better services to existing magistrates with disabilities. Further work and research is needed to implement the scale of change required.

The future challenge of engaging more disabled people to become magistrates will only be met by an on-going and effective partnership between the Judiciary, Disability Organisations, politicians, the disability community itself and persons in the community without disabilities. The creation of a Judicial Disability Advisory Group would be a major starting point.

Accessibility

All research, and disability research in particular, needs to be accessible to disabled people with a broad range of impairments or accessibility needs. It is imperative that disability reports publish mixed qualitative-quantitative results by each question in visual effect accessibility and text accessibility formats to achieve full inclusivity of the range of audiences with different sensory related disabilities. Lastly research reports need to provide narrative description of tables and charts to enable full accessibility of the report with assistive technology. It is often the case that the needs of disabled people to have access accessible research information and reports are not considered important.

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Chapter 1:

Introduction

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1.1 Executive Summary

1. In a time of decreasing judicial resources it is essential that magistrates with disabilities be better recruited, deployed and utilised. It is in this context that this research study attempts to find out the operational difficulties that are experienced by disabled magistrates; it also endeavours to review the existing available judicial disability policy. In doing so, the research offers recommendations aimed to kindle a constructive dialogue with stakeholders to improve the delivery of the existing judicial disability policy. Through seeking to undertake an audit of judicial resources deployed, and focusing on recruitment of more disabled people, and in designing bespoke practices and services including a centralised budget to fund disability services, the author and disabled magistrates aim to use evidence from the survey to persuade decision makers to implement the recommendations proposed, including those of Sir Bert Massie, the retired Chairman of the Disability Rights Commission. The report highlights the potential for effective and necessary disability related operational productivity improvements if the judiciary is to successfully respond to the efficiency savings demanded of it.

1.2 Motivation and structure

2. In order to inform the judiciary of England and Wales and its stakeholders about future policy development opportunities, the author of the report sought to review and provide a better understanding of the existing evidence base in relation to disabled magistrates' experiences across England and Wales. Using the data, it is intended to provide helpful suggestions for improving the understanding of the needs of magistrates with disabilities and for developing supporting policies or services provided to them in their role. The research involved a three-phase approach, which established what is known about magistrates with disabilities, their experiences of disability in court and how the magistracy accommodates a broad range of needs. **Phase 1** involved a literature search and review, leading to discussions with magistrates with disabilities and carefully investigating the existing judicial disability policy. **Phase 2** involved designing and conducting a 10-question survey with the assistance of the Magistrates' Association communication channels and the Ambay Software's Sentencing Guideline Application user base. **Phase 3** involved a further literature search and review, data analysis, data interpretation and consultation with magistrates, and representatives of disability organisations and academics.

1.3 Research aims and objectives

3. The research aims to assess whether the Equality and Diversity Policy for the judiciary of England and Wales adequately supports magistrates with disabilities to discharge their judicial office duties; it also proposes to identify positive indicators, opportunities or indicative policy themes that would benefit from further investigation by relevant stakeholders. This research study analyses the effectiveness of existing judicial disability policies, and the responses from a sample of the 252 magistrates, voluntarily identified as having a disability, and who replied to the Magistrates with Disabilities Survey. The results are limited to 252 participants.

Phase One – Initial investigative inquiry and literature review

4. Phase One intended to:
- Review existing disability literature to ascertain what was already known about magistrates with disabilities within the public domain
 - Review the range of existing disabilities in relation to judicial policies
 - Establish the prevalence of magistrates with disabilities and any changes over the last decade
 - Identify gaps, weaknesses and trends in existing data sources such as the Judicial Office or the Magistrates' Association publications
 - Explore informally with other disabled magistrates barriers to participation, attitudes about disability in court and their experience of obtaining their adjustments to assist them with their work. The policy research approach strove to understand how these impact on their lives or judicial office
 - Identify barriers faced by magistrates with disabilities and recruitment into the magistracy
 - Identify promising practice in order to improve under-representation of magistrates with disabilities
 - Identify approaches to delivery-focused improvements.

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Phase Two – Conducting a magistrates-with-disabilities survey

5. This 10-question survey considered respondents' views on each category of anti-discrimination measures referred to in the Equality and Diversity Policy of the judiciary of England and Wales⁴. Bearing in mind the equality compliance measures directed by the Lord Chief Justice et al, Phase Two of the research had the following objectives to:

- Identify the specific policy documents, the policies and practices affecting the retention of magistrates with disabilities and the full extent of the judicial disability policy in operation
- Seek to measure, by way of a short informal survey, the extent to which magistrates with disabilities are aware of the judicial disability policy and the level of familiarity that exists
- Quantify effective productivity (EP) and operational productivity (OP) of existing policies against those duties identified pursuant to delivering judicial objectives, in compliance with anticipatory requirements of Section 149 and other provisions of the Equality Act 2010, the Code on Judicial Conduct, the Diversity and Equality Policy of the Judiciary and the Equal Treatment Bench Book
- Seek to measure understanding of the policy through objective questioning or statements rather than seeking personal opinions on the policy per se, including open questions, closed questions and structured questions
- Collect data and evidence to influence future judicial disability policy making and enable stakeholders such as the judiciary of England and Wales, Lord Chancellor's Advisory Committees and individual magistrates to engage positively, thus contributing to policy-making, recruitment and retention of magistrates with disabilities and addressing the underlying reasons for significant historical under-representation of persons with a disability
- Identify themes or barriers which may, or persistently, prevent a higher prevalence of magistrates with disabilities being appointed or retained, and provide specific opportunities for further investigation of delivery-focused improvements (DFIs) towards current disability support, improving disability policy communication and deploying improvements to future disability policies within the magistracy as a whole, thereby achieving better representation of the community
- Find a relevant public office-holder, a comparator benchmark, to provide the judiciary with an example of an integrated disability model that could provide a basis for change

Phase Three – Data analysis of survey and recommendations

6. Phase Three of the research is intended to:

- Explore the actual experiences of magistrates with disabilities at court and document the problems perceived in the discharge of their judicial office
- Understand in some detail the impact on disabled magistrates working life or working conditions
- Identify whether disabled magistrates felt empowered to use judicial conduct or policies to support them to do their work
- Examine disabled magistrates experiences in relation to reporting and seeking redress for breaches in relevant judicial equality policies
- Identify the changes that magistrates with disabilities need in the court system, or with judicial policy-makers in order to feel empowered, get their needs accommodated and feel confident to report any problems encountered
- Identify suitable comparators and make specific proposals to improve the support or services offered to magistrates with disabilities
- Identify, through research, approaches to establish forward looking delivery-focused improvements to current policy and services for magistrates with disabilities
- Produce a report of the findings and recommendations

⁴ The Equality and Diversity Policy of the Judiciary, Judicial Office, 2013 http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/equality_diversity.pdf

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1.4 How to read the full disability and magistracy report

7. The approach to this research has been underpinned by a social model of disability subsequent to the example of Lady Justice Hallett⁵, as discussed in aspects of the judicial practice of the *Equal Treatment Bench Book*. The approach requires research to deal with personal data legally and with sensitivity; it also requires that meaningful outcomes be documented by generating and analysing evidence. This focuses the research on identifying barriers to equality and on making recommendations for breaking these barriers down. Significant parts of the research and data collected have an explicit focus on particular groups that identify with the definition of disability under the Equality Act 2010, on impairment groups, on types of reasonable adjustments, on categories of discrimination and on the range of disability-related judicial policies.

8. It is accepted that the relationship between disability and impairment is complex. The Disability Rights Commission ('DRC') (Disability Rights Commission, 2006, p. 9) guidance reminds us, “**differences in outcome reflect the fact that people with different impairments experience particular types of barriers to equal participation**”. With reference to reading this research, the DRC also points out that “**the results by impairment type should be a springboard to determine what further services or research – perhaps based on establishing barriers – is needed to develop remedial action. This will create opportunities for further service development, study and research in the future**”.

9. The report has been written with the intention of moving parts of the evidence base forward so as to generate actionable findings for tackling complex issues.

10. The rest of the report reads as follows:

- **Pages 1 to 21** provide a summary of the research objectives, survey data and its actionable findings.
- **Chapter 2** provides a summary of the key research findings and outcomes.
- **Chapter 3** provides the research methodology and overview of the literature guiding the research and report drafting.
- **Chapter 4** assesses the policy and legislative background plus the context from existing research, sources of data or organisational analysis which the scope of terrain supporting magistrates with disabilities.
- **Chapter 5** documents the survey results and data analysis to support the fabric of the report.
- **Chapter 6** provides a conclusion and recommendations framework for moving the evidence base forward into actionable findings
- **Chapter 7** provides a range of reference materials including critical reviews of the report; bibliography; variable definitions and a copy of the survey.

1.5 Key research and survey findings – summary

11. The comparative **public office-holder** – the Houses of Parliament’s Disability Assistance Programme and the **private sector innovations** – in implementing reasonable adjustment agreements provides a positive basis for delivering a judicial office-holder’s disability policy based on an integrated model of disability. This development encapsulates the direction of future judicial disability policy as an example of a **social model of disability**, as directed by Lady Justice Hallett, explicitly referenced in the *Equal Treatment Bench Book*.

12. This research identifies a number of recurring **barriers to equal participation** and judicial disability policy failures that would benefit from further judicial office research or research by academic institutions. Clear actionable findings include improvements in disability-related policy-making and targeted effective communication of the policy. Therefore, magistrates have a compelling case to **introduce a disability handbook** that consolidates the range of policy needs and the organisational procedures or services at hand to support magistrates with disabilities, magistrates working with disabled persons, or judicial office-holders more generally. The key findings from the research and survey data analysis of 252 disabled magistrates includes:

⁵ *The Equal Treatment Bench Book: Physical Disabilities*; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB-Physical_Disability_finalised_.pdf November 2013, *The Judiciary of England and Wales, The Judicial Office*, Page 3 paragraph 6.

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- The **average career of a magistrate with a disability**, in a voluntary capacity, is 12.8 years, which post-dates the Disability Discrimination Act 1995 (now repealed). Of those magistrates surveyed, 80.4% **were confident that their health issues were protected** under the Equality Act 2010.
- The prevalence of magistrates with disabilities in post is estimated to be between 3.4% and 4.2%. **Magistrates with disabilities are under-represented by 80%** compared with the prevalence of disability in the population in general. This means that to achieve equality more than 3,000 more magistrates with disabilities would need to be recruited.
- The relationship between the **under-representation of disabled magistrates'**, disability awareness generally in magistrates' courts and of the **adult prison population with disability needs** and **offending** patterns would benefit from further research.
- 43.6% of magistrates with disabilities had **arthritis or orthopaedic-related impairment** and 24.8% had **hearing impairment**; furthermore, a high level of reasonable adjustment had yet to be made to their judicial office arrangements. Only 9% of magistrates requiring adjustments had those arrangements **implemented in full**.
- In relation to **effective** productivity, magistrates promoted a need for **making adjustments or adaptations to premises** (43.8%) and **acquiring or modifying equipment** (30%).
- In relation to **operational** productivity deployed, magistrates noted 23.7% **recorded an incomplete or varying degree of making of adjustments or adaptations** and 10% **recorded acquiring or modifying equipment**.
- 45% of magistrates with disabilities **experienced multiple forms of prohibited, unlawful disability discrimination**. Significant evidence was cited that the existing judicial conduct and grievance policy was failing magistrates with disabilities in circumstances surrounding disability discrimination.
- 29.5% of magistrates with disabilities **had no knowledge or little understanding of judicial disability, equality policies or legislation**.
- As well as an established legal and social argument, there is a **potential economic business case** for representing regularity and improving adjustment services provided to magistrates with disabilities and the potentially recurring productivity savings that can be achieved.
- Failures of the existing disability equality policy have the **potential for recurring liabilities or damages** of almost £5m, arising from statutory torts of disability discrimination.

13. The research outcomes require **implementation of actionable findings** and a **recommendations framework**, including the helpful suggestions from Sir Bert Massie. These suggestions produced a **bespoke and centrally funded disability policy** strategy and services for magistrates with disabilities, within a **service level agreement and performance management culture** now adopted by the private sector.

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1.6 Key conclusions and recommendations for moving forward actionable findings

14. This report **recommends** that the judiciary of England and Wales proposes a collaborative partnership with stakeholders, interested parties and that it involves magistrates with disabilities in order to create **a roadmap** for:

- The judiciary of England and Wales to **reconfirm its commitment to being an equal opportunities organisation** and its belief in the need for disability equalisation and thus setting forth a policy development process to take forward the actionable findings of this report and report back on the progress.
- Addressing the **underlying causes** of the failures identified and investigating the requirements for a magistrate to be in **'good health'** and its potential effect on disabled persons' recruitment.
- Learning from the activity of **leaders in deploying disability equalisation** within and outside the organisation.
- The gradual **recruitment of more members from the community with disabilities** through implementing an effective outreach and recruitment plan.
- The implementation of the advice from Sir Bert Massie on **developing an audit, implementing centralised funding and creating a bespoke adjustments service** for magistrates, or more generally for all disabled judicial office-holders.
- Agreement with the judiciary of England and Wales for the **production and implementation of a specific detailed plan of action with undertakings** from the judiciary to take forward the **actionable findings**.
- The further development of a **social and business case** for future recruitment of disabled people and for making improvements to services to retain them in judicial office.
- The provision of **resources for a nationally funded bespoke rational adjustment service** for magistrates with disabilities through a **service level agreement** contract with targets for **end-to-end delivery**.
- The evolution and consolidation of existing policies towards the development and deployment of **objectives for a judicial outreach, facilitation, assistance and support services strategy**, and to deploy the necessary resources to achieve this **as a top priority**;
- The provision of an **improved, simplified and easy-to-access complaints process** for dealing effectively with issues relating to disability equality whilst sitting at court;
- The immediate implementation of **mandatory equality training requirements** across the core training delivery for all magistrates to increase individual **competence, knowledge and understanding of disability equality**; and
- Leading cultural change and measuring, embodying and reporting on disability equality to increase **awareness and activity in the operationalisation of equality**, rather than depending on individuals voluntarily familiarising themselves with largely unknown policy documents.

15. The findings of the research report reinforce the need for the judiciary of England and Wales to **be firmly convinced about the equality of opportunity for disabled people; findings also** reaffirm that much more can be done and should be done to increase under-representation within the court system and the magistracy.

Chapter 2:

***Summary of Research Findings and
Outcomes***

Report into the Magistracy and Disability

2.1 Funding magistrates with disability equality: judicial resources

16. Morgan and Russell et al, 'The Auld Report' and more recently established industrial-related transaction research⁶ confirm that HM Courts and Tribunal Service provides operational funding for the Judiciary of England and Wales from within its £1.7bn budget – of which £585m is recovered from fee income and other income from service users. The judiciary deals with more than 2m criminal cases and 150,000 family cases annually. As of 31 March 2014, there were 3,261 paid members of the judiciary (excluding paid tribunal members): 140 were District Judges (magistrates courts) and 170 Deputy District Judges (magistrates courts), who provided circa 466,550 man-hours⁷; each was retained to provide 215 days annual service of seven hours per working day at an annual cost in the range of £75.5m to £90.3m. Comparatively, there were 21,704 magistrates in post providing approximately 2,126,992 man hours equating to 710,000 comparable court business man-hours at a cost of £28.6m to £41.4m per annum⁸. Both comparators included the cost of legal and other court associate costs connected to both District Judges and magistrates. HM Government is seeking further efficiency savings. Premises or other fixed costs had no comparable differential impact. Significantly, 906 magistrates with disabilities and who access reasonable adjustments at court will have an impact on time [T], cost [C] and the quality of decision making [Q] expressed as operational productivity; and, according to the survey results, are candidates for improving efficiency.

2.2 Average career of a magistrate with disabilities

17. The average career of a magistrate with disabilities in a voluntary capacity is 12.8 years. This was broadly unchanged whereby respondents were self-identified as having a disability that was covered under the Equality Act 2010 ("EqA"). Interestingly, those respondents who believed that their disability did not amount to a statutory disability under EqA (EqA(n)) had a shorter career as a magistrate (averaging nine years). Conversely, those respondents who did not know if their disability was covered by EqA (EqA(u)) had a longer career as a magistrate averaging (16 years). Further, those magistrates with disabilities who had received full implementation of reasonable adjustments (represented by the variant (RA(y)) had a shorter career as a magistrate (averaging nine years). It would appear that most of the magistrates questioned were not in post when the Disability Discrimination Act 1995 was enacted. The concatenated effect of whether a magistrate recorded as having a statutory disability, and the time span of their judicial career, presents two contrasting pictures throughout the survey: the different experiences or perceptions of services received or discrimination related to disability.

2.3 Magistrates disability survey prevalence and the Equality Act 2010

18. In this surveyed sample of 252 magistrates with disabilities, 80.4% of the cohort was self-identified as having a disability deemed as a protected characteristic under the Equality Act 2010. A further 10.4% of the cohort did not identify as having a disability that might qualify as a protected characteristic under the Equality Act 2010 and 9.2% of the cohort did not know if their disability was protected under the Equality Act 2010. This is a significant finding because the two different variants EqA(y) and EqA(n)(u) demonstrate two differently recorded sets of experiences or perceptions throughout the survey. The survey results also suggest that the officially recorded judicial office magistrates' statistics, in post with disabilities, could be considerably overstated. Further, the EqA(n)(u) variant shows that those persons who may access a disproportionate share of resources, despite not qualifying as disabled persons under the Equality Act 2010 at the expense of participants who do qualify, do not receive the support they require to function effectively in their roles as magistrates with qualifying disabilities.

2.4 Magistrates' disability prevalence

19. The survey analysis suggests that in the last six fiscal years the number of magistrates recorded by the judicial office as being self-identified and having a disability continued to fall to 906 or 728, if the variant EqA(y) is considered (which reflects statutory disability under the Equality Act 2010). Furthermore, this amounts to a magistrates' disability prevalence rate of between 3.35% and 4.17%. The national statutory disability prevalence rate, published by the Office of Disability Issues for England and Wales is 20.1%; therefore, in order to achieve disability equalisation a full representation of magistrates with disabilities should amount to 4,362 nationally. Therefore, the magistracy rate of disability under-representation is between 74.7% and 81%, which reflects on the current performance of judicial equality policies. However, it is noteworthy that Durham, Lancashire, Norfolk, Dorset, Merseyside and mid & south Glamorgan local justice areas have made progress with a higher disability retention prevalence rate of between 5.9% and 8.5%, adjusted by the variant EqA(y). Sussex, Cumbria, Lincolnshire, Northamptonshire, North Wales, Buckinghamshire and Oxfordshire, Hertfordshire, Kent, London west, west Glamorgan, and south and central London local justice areas have a disability prevalence retention rate of between 2.5% and 3.5%, which requires urgent remedial action.

2.5 Magistrates' disability and impairment

20. The survey analysis indicates that of the cohort impairment (bodily functions) groups, the highest impairment prevalence amongst magistrates with disabilities included those participants with arthritis and orthopaedic-related

⁶ *The strengths and skills of the Judiciary in the Magistrates' Courts*; Ministry of Justice Research Series 9/11; November 2011.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217366/strengths-skills-judiciary.pdf

⁷ 140 District Judges (Magistrates Court) 170 Deputy District Judges (Magistrates Court); Operating Costs over 330 Magistrates Courts; 215 contracted days per year; 7 hours per day; Who are Magistrates publication; Judicial Office; <http://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/magistrates-court/>

⁸ Based on the published costs; Judicial Office; 2014; <http://www.judiciary.gov.uk/about-the-judiciary/judges-career-paths/terms-of-service/judicial-expenses/>

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impairment at 43.6%, followed by an impairment profile that included hearing-related impairment at 24.8%, neuromuscular skeletal impairment-related conditions at 24.4%, respiratory-related impairment at 12.8% and heart-related impairments at 11.6%. Further, when the EqA(y) variant was applied, except for hearing-related impairment, which remained broadly the same, the prevalence increased from 2% to 3%. Conversely, when the EqA(n)(u) variable was applied, the impairment prevalence profile was demonstrated as follows: arthritis and orthopaedic-related impairment at 34.7%, hearing-related impairment at 30.6%, neuromuscular-skeletal related impairment at 12.24%; and other impairments at 10.2%. Significantly, to consider the prevalence most likely engaged with when adjustments were made in full, the RA(y) variable was applied and prevalence changed to include arthritis and orthopaedic-related impairment at 38.84%; followed by neuromuscular skeletal-related impairment at 31.58%, vision-related impairment at 15.79%; and other impairments at 15.79%. In comparison with the population as a whole, magistrates with disabilities in this sample had a significantly higher incidence of hearing-related impairment at 24.8%, which remained roughly the same with or without the perception of statutory disability protection under the Equality Act 2010, as opposed to the general population of 5%. It was noteworthy that 5% of those with hearing impairments had not received full assessment, or the implementation of reasonable adjustments to discharge their duties as a magistrate with a hearing impairment. This presents a significant risk of public liability in all respects.

2.6 Status of reasonable adjustments deployed

21. The survey analysis indicates that, overall, only 9% of magistrates with disabilities had received full implementation of the operational reasonable adjustments required to perform their judicial office. The operational incidence increased marginally at 9.7% for those participants who considered themselves disabled under the Equality Act 2010, as denoted by the variant EqA(y), and reduced significantly to 5.7% for those participants who did not know or believe they had a statutory disability denoted by the concatenated variant EqA(n)(u). Furthermore, across all variants of the variable EqA, 5.7% of participants recorded that no reasonable adjustments of any type had been implemented, but were required. Further, where participants recorded incidences of incomplete implementation of reasonable adjustments, there was a stark contrast with those participants associated with EqA(y) at 9.7% and participants associated with EqA(n)(u) at 2.9%. Overall, 35.1% of participants indicated that they had not been offered an assessment of their needs, which decreased to 25.7% with the concatenated variant EqA(n)(u). Significantly, 37% of participants recorded having not requested an assessment of the adjustment needs which significantly increased to 54.3% with the concatenated variant EqA(n)(u). There are two important findings: reassuringly, there was **no evidence at all** of a policy of outright refusal for making any reasonable adjustments; the primary perception or concern that was raised by participants focused on incomplete deployment of reasonable adjustments, and the availability of judicially commissioned occupational assessment of needs to discharge their roles as magistrates.

2.7 Reasonable adjustments and effective productivity

22. The survey analysis indicates that, overall, in terms of optimum productivity, the recorded priorities for making reasonable adjustments included the following: making adjustments or adaptations to premises at 43.8%, reducing significantly to 14.3% with the concatenated variant EqA(n)(u); acquiring or modifying equipment at 30.1%, broadly the same across all variants of the variable EqA; training of colleagues, managers and co-workers at 14.6%, broadly the same across all variants of the variable EqA; and providing information in an accessible format at 10%, broadly the same across all variants of the variable EqA. One hundred and seventy-one participants recorded that they required one or more reasonable adjustment service. In contrast, from an operational point of view, fewer than 20 respondents had received full implementation of required reasonable adjustments to provide effective productivity. Fewer than 10 respondents had received full implementation of adjustments or adaptation to premises. Interestingly, in this study, 27.9% overall indicated that no effective reasonable adjustments were applicable. Overall, participants who identified with the impairment groups: arthritis/orthopaedic at 54.2%, neuromuscular-skeletal at 28.1%, hearing at 19.8% and respiratory at 18.6% were most likely to engage with the making of adjustments or adaptations to premises to support effective productivity in carrying out their role as a magistrate with disabilities; followed by those identified with arthritis/orthopaedic conditions at 37.5%, neuromuscular-skeletal at 25%; vision at 21.9% and hearing at 18.8% – groups that were most likely to engage with the need to train colleagues, managers and co-workers in order to support their effective productivity in discharging their roles as magistrates with disabilities. Consistently, those participants who recorded manifestations of respiratory impairment, arthritis/orthopaedic impairment, neuromuscular-skeletal impairment, hearing, vision, blood-related and cancer-related impairments required reasonable adjustments to a judicial policy, criterion or process to effectively carry out their duties as a magistrate with disabilities.

2.8 Reasonable adjustments and operational productivity

23. The survey analysis indicates that, overall, in terms of operational productivity, the recorded delivery of actual services were as follows: making reasonable adjustment included adaptations to premises at 23.7%, increasing significantly to 49.5% with the variant EqA(y) and decreasing significantly to 14.3% with the concatenated variant EqA(n)(u); acquiring or modifying equipment at 10%, increasing to 30.4% with the EqA(y) variant and reducing slightly to 28.6% with concatenated variant EqA(n)(u); allowing a period of disability leave at 8.2%, increasing to 11.4% with the EqA(y) variant and reducing substantially to 2.9% with the concatenated variant EqA(n)(u). Overall, compared to the effective productivity promoted by participants, only 46% of those services suggested had been deployed. One hundred and thirty participants recorded that they had not received a reasonable adjustment service. Sixty-one participants stated they did not require a reasonable adjustment service. Fewer than 10 respondents had received full implementation for making adjustments or adaptation to premises. Interestingly, in this study, 27.9% overall indicated that no effective reasonable adjustments were carried out, or were not applicable.

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24. Furthermore, participants who, on the whole, identified with the impairment groups: arthritis/orthopaedic at 40.4%, neuromuscular-skeletal at 26.9%, respiratory at 17.3%, hearing at 15.4% and heart at 13.5% were most likely to have received, operationally, some degree of service with the provision of adjustments or adaptations to premises in order to support their effective productivity in discharging their roles as a magistrate with disabilities; followed by arthritis/orthopaedic at 45.5%, neuromuscular skeletal at 40.9%; heart at 18.2%; and hearing, digestive, blood and cancer cases at 13.6% who were most likely to have received, operationally, some degree of service with acquiring or modifying equipment to support their effective productivity in carrying out their role as a magistrate with disabilities; followed by participants who identified with the impairment groups: arthritis/orthopaedic at 38.9%, neuromuscular-skeletal at 27.8%, cancer at 22.2%, blood-related conditions at 16.7% and hearing at 16.7% that were most likely to have received, operationally, some degree of policy provision permitting a period of disability leave, or change in working pattern to support their effective productivity in carrying out their role as a magistrate with disabilities.

25. Consistently, the survey reveals that there are significant opportunities to improve the low level of operational resources or policies deployed to support magistrates with disabilities in effectively carrying out their duties.

2.9 Disability discrimination in judicial office

26. The sample of 252 magistrates identified 229–436 incidences of potentially unlawful disability discrimination, dependent on the identified variables. Their principal concern was a failure to make reasonable adjustments at 28.3%, increasing to 31% when the EqA(y) variant was applied and reducing substantially to 14.3% when the concatenated variants EqA(n)(u) were applied. Interestingly, there were no incidences of this form of discrimination when the RA(y) variant was applied, representing those magistrates with disabilities who had received full implementation of their reasonable adjustments as opposed to those who had not with concatenated variants RA(n*) at 33.3%. This form of discrimination increased considerably when the concatenated variants EqA(y) and RA(n) were applied and recorded incidences of 90%, representing those respondents who considered themselves disabled under the Equality Act and who had received no reasonable adjustments, followed by those who had received incomplete implementation or had not been offered an assessment of their needs, but were also identified as being disabled (EqA(y)RA(n)(na) and EqA(y)RA(n)(na)(no) at 59.3% and 48.9%, respectively. Interestingly, those who did not identify with being disabled under the Equality Act 2010 or did not know (EqA(n)(u)) and did not request an assessment of their needs denoted by the variant RA(nr) recorded no incidences of this form of discrimination.

27. The survey results also recorded a similar pattern, overall, of incidences of potentially unlawful disability discrimination through a failure to undertake an assessment of a magistrate's disability needs at court (almost 26%), decreasing when the concatenated variants EqA(n)(u) were applied. Again, these incidences increased significantly when reasonable adjustments had not been implemented at all, or implementation was incomplete, with recorded incidence at between 42% and 70%. This was followed by potentially unlawful disability discrimination because of a consequence arising from a disability at court at 13.2%, decreasing to 8.6% when the concatenated variants EqA(n)(u) were applied. Again, these incidences increased significantly when reasonable adjustments had not been implemented at all or were incomplete, recorded at between 16.9% and 37%. This was followed by potentially unlawful disability discrimination as a result of being treated less favourably at court (9.1%), decreasing to 2.86% when the concatenated variants EqA(n)(u) were applied. Again, these incidences increased significantly when reasonable adjustments had not been implemented at all or were incomplete recorded at between 16.3% and 40%. Finally, a similar pattern of potentially unlawful disability discrimination emerged by direct discrimination, indirect discrimination, harassment and victimisation.

28. The survey revealed that, overall, 54.8% of participants had not experienced disability discrimination, deteriorating to 51.6% when the EqA(y) variant was applied and improving substantially to 71.4% when the EqA(n)(u) variant was applied. In contrast, recorded incidence of non-discrimination when the RA(y) variant was applied was 78.9%, representing those magistrates with disabilities who had received full implementation of their reasonable adjustments, as opposed to those who had not, with concatenated variants RA(n*) at 49.6%. Interestingly, non-discrimination considerably reduced to 10% when the concatenated variants EqA(y) and RA(n) were applied; non-recorded incidences reduced significantly, representing those respondents who considered themselves disabled under the Equality Act and had not received reasonable adjustments; followed by those who had received incomplete implementation or had not been offered an assessment of their needs and were identified as being disabled (EqA(y)RA(n)(na) and EqA(y)RA(n)(na)(no) at 33.3% and 30.4%, respectively. Significantly, those participants who did not request an assessment of their disability needs and who did not identify with or know if their disability qualified under the Equality Act 2010 recorded no incidences of discrimination at 90%.

29. Overall, participants recorded, in the same proportions, similar incidences of the different forms of disability discrimination. However, when discrimination by impairment type was examined, it was determined that there was a significantly higher risk of discrimination in the following order of impairments: arthritis/orthopaedic conditions; neuromuscular-skeletal conditions; hearing; respiratory; cancer and then vision impairments. Further, participants recorded, in the same proportions, similar incidences of the different forms of disability discrimination by adjustment category. However, when discrimination by category of reasonable adjustment (as referred to in the Equality Act 2010, Code of Practice) was examined, it was determined that there was a significantly higher risk of discrimination in the following order of adjustment types: making adjustments or adaptations to premises (62%–75%); acquiring or modifying equipment (45%–69%); training of colleagues, managers and co-workers (35%–69%); and in modifying a policy, procedure, practice or criterion (16%–44%).

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2.10 Complaints of disability discrimination and judicial conduct

30. The survey results revealed that, despite the 50% incidences recorded amongst participants of potentially unlawful disability discrimination, there were relatively few incidences recorded of engagement with the formal judicial conduct procedures. Primarily, when judicial conduct engagement was recorded, the incidences on the whole involved complaining to a bench chairman at 11.4%, which dropped significantly to 8.6% when the EqA(n)(u) variant was applied. Interestingly, when the RA(y) variant was applied, depicting those magistrates with disabilities who had full implementation of their reasonable adjustments, the incidences recorded were substantially increased to 15.8%, increasing even further for those participants who recorded disability discrimination by a failure to assess their needs ((D(fn)) at 21.1%; and, a further substantial increase at 27.6% when those participants who recorded disability discrimination as a consequence of something related to their disabilities (D(c)) at 27.6%.

2.11 Disabled magistrates own knowledge and understanding of equality policy or legislation

31. Roughly 30% of the sample of magistrates with disabilities had no knowledge or understanding of any of the legislation or judicial policies listed under the survey. The survey results revealed that 63.1% of magistrates with disabilities who participated had knowledge and/or understanding of the duty to make reasonable adjustments under the Equality Act 2010; 43% had knowledge or understanding of protection as a result of less-favourable treatment under the Equality Act 2010; 42.5% had knowledge or understanding of protection from disability harassment under the Equality Act 2010; 39.7% had knowledge or understanding of protection from disability victimisation under the Equality Act 2010; 43.9% had knowledge or understanding of protection from direct or indirect discrimination under the Equality Act 2010; 17.3% had knowledge or understanding of the Code of Judicial Conduct's dignity at work statement; 10.3% had knowledge or understanding of the Code of Judicial Conduct annexes on the Equality Act 2010; 15.4% had knowledge or understanding of the grievance procedure to complain to an advisory committee about disability discrimination; 8.4% had knowledge or understanding of the judicial office Holder Reasonable Adjustments Policy; 9.4% had knowledge or understanding of the Disability Law Service (charity); 14% had knowledge or understanding of HM Courts and Tribunals Service workplace assessment procedures to obtain reasonable adjustments; and 29.5% of all participants were not aware of any of the provisions. The pattern of results remained broadly consistent across all of the identified variables, but with a downward trajectory in the level of knowledge and understanding whereupon a magistrate with disabilities had failed to receive effective reasonable adjustments; or had recorded incidences of discrimination or engaged judicial conduct policies for something connected to their disabilities. It was noteworthy that as few as 18 magistrates with disabilities, in the sample, were aware of the Judicial Office Holder Reasonable Adjustments Policy.

2.12 Disabled magistrates personal accounts of disability discrimination

32. Magistrates have raised concerns in relation to their personal experiences and their disabilities whilst sitting in court. This survey's free-narrative field provided an opportunity for participants to express themselves in a way without the intrusion of the author, researcher or by the need to provide explanations through forms of numerical representation. The qualitative accounts provided supports similar themes already identified and give helpful insights about the personal experiences, engagement and impact of current policies or practices. It is hoped that this report, which provides a unique insight into the human effect of practice, is received in a positive and constructive light; and, that it will enable policy-makers to consider magistrates with disabilities as individuals and the difficulties they face whilst working as committed team members.

2.13 Productivity comparative analysis

33. The survey results revealed that there was potential for substantial effective productivity and an operational gap of 39.8%, or a unitised ratio of £2.12:£1.28 in lost value for money, between those reasonable adjustments sought by magistrates with disabilities and those reasonable adjustments operationally deployed under the current Judicial Office-Holder Reasonable Adjustments Policy. Overall, the survey identified six priorities (weighted by prevalence) for delivery-focused improvements to drive up operational productivity and to remove any detriment or to enhance magistrates with disabilities that are productivity affected by any deficit, as characterised by the categories referred to in the Equality Act 2010, Code of Practice. The priorities included the following: (1) making adjustments or adaptations to premises with a productivity gap of 45.9%; (2) acquiring or modifying equipment with a productivity gap of 66.8%; (3) training of colleagues, managers or co-workers with a productivity gap of 87.7%; (4) modifying a policy, procedure, practice or criterion with a productivity gap of 57.5%; (5) transferring to another bench or court with a productivity gap of 57.5%; and (6) modifying hours of work or the training needed with a productivity gap of 60.9%.

2.14 Potential for business productivity benefits (indicative)

34. The survey results revealed a potential deficit of 39.8% in operational productivity in regard to the existing judicial office-holder reasonable adjustment policy, indicating there are potential opportunities to realise future business case benefits. The potential realisation ((p(r)) of benefits means the fixed costs (c) identified earlier and adjusted by the unit cost of making the effective reasonable adjustment (a) at a transactional level for the range of existing magistrates with disabilities and potentially increased numbers of magistrates with disabilities (n) multiplied by the effective productivity ratio (EP:OP) either in hours (t) or cost (c) multiplied by the value (v) effect, which includes a potential for improvement in loss of value for money and improvement on the quality [q] of outcome.

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2.15 Investment and recurring savings

35. The survey results and subsequent research into the judicial business analysis, on a case study basis, suggest that there are potentially significant recurring savings to be realised in the short and long term. According to the Judicial Office (magistrates' statistics), there are 906 magistrates who are self-identifying and have a disability or long-term health problem, which equates to magistrates with disabilities contributing from 82,446 to 145,866 hours per year, depending on the number of sittings within the agreed 13–23 days per year. The identified case study suggests that the average total cost of making reasonable adjustments for a disabled employee is £750. Accordingly, circa £680,000 of initial investment would have been required to support the existing policy. If those who did not qualify as having a statutory disability were excluded, theoretically, that investment would reduce to £547,000. This amounts to a non-recurring investment requirement, overall, in the range of £25.20 to £31.33 to the cost of recruiting a magistrate with disabilities within the overall financial costs for each of the 21,704 magistrates in post, or £1.98 to £2.46 per year over the magistrates with disabilities average judicial career. When this is expressed as the MoJ indicative unit cost per hour for each magistrate with disabilities, the cost amounts to £0.37 per hour in the course of the magistrate's average career. The equivalent in respect of cost per man-hours, as reflected in all magistrates' man hours, is £0.25 to £0.32 per hour each year, or £0.02 to £0.03 per hour over the magistrates with disabilities average career, as reflected in the overall costs.

2.16 Recurrent and cumulative business savings potential

36. Conversely, when the non-recurring investment programme is completed and assuming no further changes are made, the identified productivity deficit that amounts to 39.8% translates into potential savings of 58,054 man-hours in the target group; these savings also represent potential recurring annual cost savings of £518,621. This amounts to a recurring saving of up to £3.56 per hour per magistrate with disabilities with cumulative equivalency of £45.15 per hour at the end of the average career of a magistrate with disabilities. The associated cumulative effect on colleagues' time (T) or court time (T) saved would also generate additional recurring savings. No consideration is made to unknown investment already deployed, as it is not publicly available.

2.17 Goals for future recruitment and retention of magistrates with disabilities

37. The 906 magistrates, who self-identified as having a disability or long-term health problem from a total of 21,704 magistrates in post across England and Wales, represent an absence from the benches of between 3,457 and 3,602 magistrates with a statutory protected characteristic of disability, referred to in the Code on Judicial Conduct and the Equality and Diversity Policy for the judiciary of England and Wales. This discovery presents a challenge for all concerned both in terms of complying with the Equality Act 2010 and more specific compliance with Public Sector Equality Duty. It also reflects unfavourably on magistrates overall who are responsible for the recruitment of new magistrates. There are significant social and economic benefits to be derived from setting goals, possibly by Advisory Committee level, for recruiting and retaining magistrates with disabilities from a broad range of socioeconomic backgrounds and within the wider naturally occurring panacea⁹ of impairments.

2.18 Potential future liabilities and costs

38. The survey results revealed that, overall, within a sample of 252 magistrates with disabilities, a potential 252–436 incidences of prohibited unlawful disability discrimination had been recorded, arising from what Lady Justice Hallett described as damages from statutory torts. In this survey, the principal liability examined is the real potential cost or recurring cost for litigation, across the range of variables. It could be a cost of as much as £5m if the current policy fails to evolve following the changes to the Equality Act 2010 on 1 October 2013.

2.19 Summary of conclusion and recommendations

39. The results of the survey reveal a consistently recorded evidential base of under-utilisation, understatement of the economic potential and the lack of services or support provided to magistrates with disabilities under the current Equality and Diversity Policy for the judiciary of England and Wales. This research provides positive examples of approaches taken with other office-holders to reach out to members of the community with disabilities, facilitating the gap between recruitment and representation, providing adequate funding of reasonable adjustment services, supporting disabled persons in office to maintain retention rates and improve compliance with the social and legal requirements of the Equality Act 2010. Additionally, a documented case study by a commercial company is analysed and the lessons learned from it are presented in order to provide a model for improving reasonable adjustment services; alternatively, any practical experience acquired may supply the framework for the development of a bespoke judicial adjustment service for magistrates, or more broadly for other judicial office-holders with disabilities within an accountable agreement framework.

⁹ *Disability in the United Kingdom 2013; Facts and Figures; Papworth Trust;*
<http://www.papworthtrust.org.uk/sites/default/files/Facts%20and%20Figures%202013%20web.pdf>

Chapter 3:

Research Methodology and Implementation

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3.1 Literature Review: Disability and Judicial Social Model Research

Context

40. Albrecht, Seelman and Bury (Albrecht, 2001 - 2003) provide a broad and multi-faculty of research methods and disciplines for conducting disability-led research studies with notable¹⁰ contributions from accomplished and published UK disability-related researchers. Albrecht et al suggests that disability research achieves greater authenticity within the disability community when led from within. Disability research cannot, however, achieve validity without being positioned within the broad sphere of management, sociology, legal and medical research methods across the opposing positivist and post-positivist research philosophies. In other words the context of the research will be routed in a complex organisational policy or practice of which persons with disabilities should have a representative role. Albrecht further argues that as disability researchers, we need to submit a series of rigorous, comparative, recurring empirical studies to monitor the growth of public-sector resource and secure commitment to disabled persons or progress in every country of the world in which it is possible to do. Disability Studies should generate data which seeks to identify its leaders and laggards which would be immensely useful to disability advocates seeking to influence public policy on behalf of constituents.

The language of disability, impairment and illness

41. Albrecht et al conclude that the Disability Community is a broad and diverse group of people signifying in some instances the importance of group identity and oppression experienced in the social environment. The language of disability certainly is rooted in history, nationality, culture and ideology. For the purposes of this short magistrates with disabilities survey, the Barnes and Mercer (Barnes & Mercer, Disability: Disability policy and practice: Applying the Social Model of Disability, 2005) approach is adopted in that **disability** means the social barriers a disabled person faces because of a physical or mental impairment. **Impairment** in that context is the study of medical and rehabilitative intervention and **illness** is a personal construct which tries to rationalise between a person being socially disabled and stereotypes of person-conditioning arising from impairment as a unique individual perspective.

Models of Disability Research

42. Watson, Roulstone and Thomas (Roulstone, The Routledge Handbook of Disability Studies (Routledge Handbooks), 2012) contend that disability research requires researchers to address different models and approaches to disability; relationships between impairment theory and disability theory; policy and legislation responses to disability in the work place; the interaction of disability and its legal rights framework; and the study of disability in the context of different life experiences (by impairment, ethnicity, sexuality, gender, social and economic status, childhood, education and ageing.) For the purposes of this short disability study the Judiciary have pre-determined that the social model¹¹ of disability should be followed in the discharge of judicial practice.

43. Barnes and Mercer (2003; 2005; 2010) call for an expansion of the interest in disability in public life, public representation and the need to mainstream disability into and across the public domain to give effect and operability to disability equalisation. They argue that as issues of disability are actively operationalised into a permanent public domain, organisations should and need to develop positively embraced cultural change along the lines of social adaptation to the progressive needs brought about by gender and racial equalisation. They argued for better anti-discrimination legislation, equal rights at work for persons with disabilities and for the need for a positive duty placed upon future Governments to discharge policies and practices which realise (rather than simply advocate) disability equality across public functions, public office and public life. They further note that there has been little progress made in achieving these expansive equalisation policies particularly with disabled persons achieving equality of earning in full time work, increasing higher educational attainment, representation in public appointments, considerably low representation in the professions and in particular the low retention of disabled persons in the discharge of public-office. This commentary reflect much of what LJ Auld concluded in his report on the review of the criminal courts when he recommended¹² steps should be taken to provide benches of magistrates that more broadly reflect the communities they serve (paras 59-86, recs 8-9).

44. Cumulatively, established disability research contends that there is significant common ground and observation in what Barnes and Mercer (Barnes & Mercer, Disability Culture: Assimilation or Inclusion, 2001 - 2003) (Barnes & Mercer, Exploring Disability, 2010), and others: McGill-Frazer, Albrecht, Priestly, French, Turner and Williams references to systemic disability under-representation. Similarly, they describe this under-representation as an international disability discrimination phenomenon - all indicating the absence of public policy with proactive and operational delivery of resources and political mechanisms to engage disability equalisation within public life.

¹⁰ Disability Research: International Editorial Advisory Board: Mark Priestly, University of Leeds; Len Barton, University of Sheffield; Sally French, Open University; David B. Gray, Washington University Medical School; Tom Shakespeare, University of Leeds; Bryan S. Turner, University of Cambridge; Gareth Williams, Cardiff University, Carol Thomas of Lancaster University.

¹¹ The Equal Treatment Bench Book, Lady Justice Hallett, Judicial Office; 2013; Page 67 paragraph; https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

¹² The Auld Report, Ministry of Justice, Chapter 2; 2001 <http://webarchive.nationalarchives.gov.uk/+/http://www.criminal-courts-review.org.uk/chpt2.pdf>

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45. This phenomenon is now commonly asserted, by McGill-Frazen and the others, as ‘**disablism**’ (Roulstone, *The Routledge Handbook of Disability Studies* (Routledge Handbooks), 2012) - much likened to sexism and racism.

International Austerity

46. Despite significant political, legal and social debate over the last 20 years, Oliver and Barnes (Barnes & Mercer, *Exploring Disability*, 2010) acknowledge that in the face of an agenda-setting response to a capital-obsessed society with cheap labour supplied through globalisation, financial instability and generational lower public expenditure; the political priority to establish let alone operationalise disability equalisation is relatively non-existent.

Inclusion of persons with disabilities who do not engage in public life

47. The world of disability research has changed dramatically over the last 20 years. The emphasis of medical impairment dominated-theories of disablement have routinely been abandoned as oppressive; so too has the American medical sociology field which sought to constrain the lives of people with disabilities within the social-medical context of an impairment. Emancipatory research established itself in the early 1970s which set to enable individuals to ask questions, try out research and to report the content, context and performance of that research within the personal and immediate disability environment. Research by action, as described by Waugh (Lynch & Dicker, 1998), is now an established mechanism for deploying continuing professional-development in the areas of human resources policy development, employee engagement and organisational equality change. Such approaches to action-based learning have common ground across race, sexuality, gender and disability studies. Albrecht (Albrecht, 2001 - 2003) identifies that ‘equally important to the concept of disability studies is the inclusion of the disability community’ and those with disabilities who do not, ordinarily, actively participate in the community or discourse. In other words, we all have an obligation to reach out to those who have disengaged through generational failures in policy - for whom we have responsibility as citizens.

Disability led research

48. The modernised concept of disability participatory or emancipatory disability research relies upon disabled persons identifying an issue, problem, policy, attitude or opportunity which affects disabled persons in a school, university, employment field, organisation or public institution. This is then coupled with understanding the institutional policy that drives disability equality and to develop research **with** or led-by affected disabled persons in that community (or is conducted with or by that community). The days of meaningful outcomes being derived by non-disabled persons conducting disability research “on” disabled persons without full participation have routinely been abandoned or deemed to have limited effect or worth.

49. Further, Oliver (Oliver, 2004) et al refer to research conducted on disabled persons without equal participation as non-disabled characterisations and ‘freak theory’ devolved by the values of individuals rather than promoted by institutions. The consequence is that the institution becomes the legal persona of the values of individual activity, conduct or competence. The outcome ultimately becomes perceived by disabled persons as an institutional discriminatory model or policy absent of organisational strategy, change or intervention.

Future Influences for Judicial Disability Equalisation Policies

50. For those magistrates with or without disabilities seeking to develop greater knowledge and understanding of the issues of disability, policy and change; the following themes and references may well influence judicial disability equalisation policy in the future:

- i. Political development of the legal duty to make reasonable adjustments^{13 14 15 16 17};
- ii. Emergence of new family, community and consumer models (Rutkowski-Kmitta, 2001 - 2003);

¹³ *Guide to Reasonable Adjustments; Equalities Commission; Tamara Lewis; 2012;*

http://www.equalityhumanrights.com/uploaded_files/Questionnaire_guides/proving_disability_and_reasonable_adjustments_workers_guide_final.doc

¹⁴ *Financing of Reasonable Adjustments Policy; Commissioned for the Civil Service; http://www.civilservice.gov.uk/wp-content/uploads/2011/09/reasonableadjustmentsguidev1_tcm6-2237.doc*

¹⁵ *Rupert Harwood Reasonable adjustments and austerity, University of Greenwich http://disability-studies.leeds.ac.uk/files/library/harwood-conferencepaperup.pdf*

¹⁶ *European Law Review (2002), volume 27, issue 3, pages 303-326 http://disability-studies.leeds.ac.uk/files/library/richard-whittle-uropean-Directive.pdf*

¹⁷ *The Scope of Reasonable Adjustment as a Discriminatory Dilemma: A Survey of British and Swedish Disability Discrimination Legislation in Comparative Perspective; Sahlin, Lawson and Shiek 2014, University of Leeds http://disability-studies.leeds.ac.uk/research/the-scope-of-reasonable-adjustment-as-a-discriminatory-dilemma/*

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- iii. Further evolution in anti-discrimination legislation^{18 19} (Roulstone, *The Routledge Handbook of Disability Studies* (Routledge Handbooks), 2012) (Rowe, 2013);
- iv. Emergence of a social-delivery model of disability (Oliver, 2004) (Power, Lord, & DeFranco, 2013);
- v. Organisational, leadership and management developments^{20 21} (Gibbs, 2014) (HM Government, 2014);
- vi. Deinstitutionalisation of prisoners with disability (Pelín, 2013) (Cunniff, Kerckhove, Williams, & Hopkins, 2012) (Hopkins & Brunton-Smith, 2014);
- vii. Equality activism and the right to participate in public life (Power, Lord, & DeFranco, 2013) (Watson, 2012);
- viii. Emergence of new models²² of delivering a competitive market for disability discrimination litigation^{23 24} (Stein, Emens, & Ashley, 2013);
- ix. International disability rights initiatives²⁵ (Bickenbach, 2001 - 2003) (HM Government, 2014) (United Nations, European Union Disability Strategy 2010 - 2020, 2010) (United Nations, 2014) (EU, 2010);
- x. The Future of Summary Justice^{26 27} and the Development²⁸ of the Judicial Office of a Magistrate.

3.2 Survey approach

51. The analysis of the survey results was based on the factual data from the 10 questions in Survey Monkey, referred to as the 'thematic and perception analysis dataset (TPAD)'. TPAD contains the anonymised data of 252 magistrates who volunteered to take part in the survey.

52. The originating approach taken included:

- Seek a respectable survey response rate (participants) of between 50 – 75 magistrates with disabilities from across England and Wales; supported and facilitated by the Magistrates' Association.
- Identify the specific policy (Brown, 2001 - 2003) to be investigated and methods of engaging the relevant survey participants using established ethical guidelines, respect for privacy and providing for maximum accessibility both electronically and non-electronically.
- Understand that disability research (Braddock, 2001 - 2003) routinely report difficulties in engaging persons with disabilities historically because of suspicions or fears of taking part in institutional surveys; related to concerns of being identified, treated differently or breaches of personal data or identifying opinions given anonymously. Provide necessary guarantees and implement measures for data privacy.
- Disability surveys should avoid collecting unnecessary personal data (Asch, 2001 - 2003) which could be associated with asking a participant to broadly associate themselves with a generalised or indicative impairment type. Ensure that there are no bio-informatics published which could fall short of a data privacy undertaking.
- Disability surveys should be made available in different access formats and should be held open for 3-6 months whilst effective communication and cascade strategies are deployed to reach the target audience. It should be noted that the community with disabilities are not historically accessible electronically at the same penetration rate as non-disabled persons within the equivalent professional group.

¹⁸ Cloisters; Rachel Crasnow, Sarah Fraser Butlin, and Sally Robertson delivered a 2014 Equality and Employment Update (which focused on legal status, disability and flexible working); <http://www.cloisters.com/latest/2014-equality-and-employment-update-focusing-on-legal-status-disability-and-flexible-working>

¹⁹ Discrimination seminar multimedia presentation; Cloisters; 2014 <https://www.dropbox.com/s/t7hhr4f3790gr6a/CloisterDiscriminationSeminar.mp4?dl=0>

²⁰ Improving Judicial Diversity; Judicial Office, 2010; https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217354/judicial-diversity-report-2010.pdf

²¹ Fit for Purpose: do magistrates get the training and development they need; Penelope Gibbs; Transform Justice; December 2014 http://transformjustice.org.uk/main/wp-content/uploads/2013/05/TJ_MAGISTRATES-TRAINING.pdf

²² Unity Law, Specialised Disability Discrimination Litigation and Disability Strategic Partnerships <http://www.unity-law.co.uk/about-us/partnerships.htm>

²³ "Access to Justice for Disabled People"; Andrew Hogan; 2013; http://www.ropewalk.co.uk/barristers/andrew_hogan

²⁴ Cloisters: The Jackson Report; 2014; <http://www.cloisters.com/latest/the-jackson-report-hot-tubbing-and-heated-debates>

²⁵ Moderator of EU work forum into disability rights in Brussels; John Horan; 2014; <http://www.cloisters.com/latest/john-horan-leads-european-commissions-work-forum-into-disability-rights-in-brussels-on-22-and-23-october-2014>

²⁶ Future of courts: A new vision for summary justice; Chambers, McLeod and Davis; The Policy Exchange; February 2014;

<http://www.policyexchange.org.uk/publications/category/item/future-courts-a-new-vision-for-summary-justice>

<http://www.policyexchange.org.uk/images/publications/future%20courts.pdf>

²⁷ Transforming the CJ; A strategy and action plan to reform the Criminal Justice System; Ministry of Justice; June 2013;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209659/transforming-cjs-2013.pdf

²⁸ Active, Accessible, Engaged – Magistracy in the 21st Century; Magistrates Association; May 2012; <http://www.magistrates-association.org.uk/dox/association%20views/magistracy%20in%20the%2021c.pdf>

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- Use the publically available Albrecht reported comparison of classification of disability (Altman, 2001 - 2003) (Rutkowski-Kmitta, 2001 - 2003) model based on the World Health Organisation Impairment Classification Framework and ensure it is referenced in the survey.
- Use the data collection tools offered by Survey Monkey (the TPAD platform) including the prevention of duplicate entries and allow for manual entry of surveys completed by paper copy.
- Provide a summary of the policy analysis which formed the basis of the survey questions.
- **Publish the mixed quantitative-quantitative results by each question in visual effect accessibility and text accessibility formats to achieve full inclusivity of the range of audiences with different sensory related disabilities. Provide narrative description of tables and charts to enable full accessibility of the report with assistive technology.**

3.3 Project Plan: Survey planning, objectives, design, conduct and analysis

53. Initially, a review of the existing literature on the topic, content and context of the relevant judicial policy was carried out to ascertain how it was framed by the policy owners, other researchers, noting what information was included, what was left out and what extent the policy constrains the individuals affected operationally. The review resulted in a scope of issues to be addressed in a survey questionnaire within the limitations identified. The survey questionnaire can be found at Annex 2.

54. This report summarises findings from a research project that used an evaluation survey. The information pertinent to policy was gathered, analysed and interpreted in order to describe the current level of institutional or demarcation effectiveness. Disability survey samples sizes within public institutions are reported as normally low in expectation or number of participants but broad in context and content. It is anticipated that results gained from the research may add insight to an existing field in disability research or equality research. The inferences from the research should identify how it is relevant to organisational situations, the organisation's actors and the policies that drive them. This is sometimes referred to as the policy or information engineering architecture, which establishes a potential baseline for evaluating any future organisational change.

55. Specifically, survey evaluation methods were deployed to obtain evidence from participants and compare with the overarching research analysis. Evaluations provide a snapshot of what is currently happening in a specific policy (or investment program) and how the policy or investment can be improved. This research project requires the gathering of extensive **new** information from the sample audience.

56. Care was taken to ensure the research objectives were clearly defined and the correct policies being investigated were identified. Consideration was given to ask peers on their thoughts on the issues arising from the policy objective intended to drive effectiveness of the operationalization or consequences of the policy outcomes. This must be concluded by turning the research objectives into questions which the research should attempt to answer.

57. Disability survey methodology, in what Denzin and Lincoln et al (Denzin & Lincoln, 2005) term mixed-methodology design, needs to provide for a mixture of quantitative paper and web surveys with qualitative open questions in a single study to enable answers to be adduced because invariable issues of disability, language, personal experience and diversity generates a need to have an opportunity for individuals to both subscribe to closed or structured questions but also provide their own personal thoughts. Qualitative and quantitative research used together produce much more complete knowledge, and can add insights and understanding that might otherwise be missed when only a single method is used. It can further help contextualise, through personal story telling, a human dimension to the research objectives that might otherwise be lost in the presentation of the narrative based on numbers.

58. The Respondents were requested to consider:

- Their own disability and which categories of reasonable adjustments best suited their own needs to remove any detriment or to enhance their own productivity levels affected by that disability. Respondents were able to select more than one category, as they deemed necessary.
- Categories of reasonable adjustments were operationalised by HMCTS or the Judiciary to remove any detriment or to enhance their own productivity levels affected by that disability. Respondents were able to select more than one category, as they deemed necessary.
- Categories of prohibited unlawful disability discrimination they had experienced (statutory torts and remedies²⁹³⁰) because of something about a magistrate's disability. Respondents were able to select more than one category, as they deemed necessary.
- Categories of remedy they had used in respect of resolving a disability related issue in the course of their work as a Magistrate with disabilities. Respondents are able to select more than one remedy, as they deemed necessary.

²⁹ Statutory Torts; Chapter 1; Pages 1-3, 10 ; The Equal Treatment Bench Book; November 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

³⁰ Engel v Joint Committee for Parking and Traffic Regulations Outside London (PATROL) 0520/12 EAT 13 May 2013.

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- Judicial disability policies, legislation requirement for Statutory Torts or sources of help available during the course of their work as a Magistrate with disabilities. Respondents were able to select more than one area of equality, policy, provision or source of help, as they deemed necessary.

59. Ensuring security is both a legal and professional obligation to assure respondents of the security of their personal information and survey responses. There is a legal requirement to describe the ways in which the respondent's identity and responses will be protected. In this survey the participants have been advised that their participation will be anonymous and confidential. No unnecessary personal information or identity information has been captured about participants. No identity bio-informatics has been retained. When publishing research, answers can be mathematically decoupled and any information that could identify a respondent will be removed or low levels of records of responses to specific question structures will be rounded or obfuscated using a Data Protection Act 1998 policy.

3.4 Identifying Judicial Disability Policy Thematics

60. The survey sought to reference the extent of the existing policy as set out by the Lord Chief Justice et al and to measure the personal awareness or understanding of the anti-discrimination measures of serving magistrates with disabilities; and to measure, subsequently, perception of how successful the Judiciary is performing against the provisions set out in the various judicial disability policies. The results of the survey identified actionable findings or specific high-level themes, which could form the basis of further discussion or analysis to review and improve deployment of future judicial disability policy.

61. The formal issue of the Equality and Diversity Policy for the Judiciary (The Lord Chief Justice & Senior President of Tribunals, 2012) created the basis for each of the survey questions.

62. The following thematics were identified:

- The determination of a qualifying magistrate with a disability under the Equality Act 2010;
- The broad category and nature of the impairment giving rise to the disability;
- The Magistrates' workplace assessments;
- The Reasonable Adjustments sought by magistrates (Effective Productivity (EP));
- The Reasonable Adjustments provided by HMCTS (Operational Productivity (OP));
- The Prohibition of forms of unlawful disability discrimination: Equality Act 2010;
- The Prohibition of disability discrimination: Code on Judicial Conduct;
- A Magistrates knowledge and understanding of judicial disability policies;
- A Magistrates experience or comments on retention of magistrates with disabilities.

3.5 Survey construct and operationalization

63. A 10 Question survey designed on the Survey Monkey Internet platform was devised; initially proposed through the Magistrates' Association (MA) forum and discussion about how magistrates with disabilities are supported in the conduct of their office. The process was also informed by informal discussion with magistrates with disabilities own experiences of disability and judicial office. Subsequently, the survey questions were developed following an assessment of the Equality and Diversity Policy for the Judiciary and associated documents. In the premises, the survey questions were limited to the actual policy laid out by the Lord Chief Justice and the Senior President of the Tribunals. Further information in relation to reasonable adjustments was obtained from the Equalities Commission code of practices that are referenced in the judicial equality policy. Additionally, some parameters were added to measure magistrates with disabilities understanding of the range of policy documents, Code on Judicial Conduct, the provisions of the Equality Act 2010 and potential sources of help should they have experienced any difficulty discharging their office because of something in connection with their disability.

3.6 Communication

64. The following communication methods were deployed in order to cascade the survey to magistrates with disabilities:

- i. The Magistrates' Association Internet Forum
- ii. The Magistrates' Association E-News bulletin
- iii. The Magistrates' Association Magazine entitled "The Magistrate"
- iv. The Ambay Software "Sentencing Guidelines Application"

3.7 Criticisms of the research design and topology

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65. Some magistrates with disabilities made representations that the scope of the policy areas and questions were very limited to anti-discrimination measures and should have been a much longer study covering a broader range of issues facing disability and judicial work. A number of magistrates commented on the positive impact made by the authorisation of the use of tablet computer technology in coping with disability whilst sitting as a magistrate. It was felt that the survey should have measured how well received the development of the Magistrates Sentencing Guidelines Application³¹ which was created and operated as an independent and private enterprise by Ambay Software Ltd. Benefits reported of using the Application were the respite from carrying heavy judicial folders, improved search facilities, wider access to judicial guidelines, increased productivity and improved accessibility features.

66. Language issues including the definition of disability, impairment, illness, sickness and reasonable adjustments were raised; as was the need to identify with a social model of disability. The issue of how magistrates who were not members of the Magistrates' Association could be reached was raised.

67. Some magistrates without disabilities communicated that they thought the survey was unnecessary or had limited worth. Some magistrates with disabilities felt that the situation was working fine and there was no need for any kind of survey.

68. Some magistrates wanted to know why there was not an annual or bi-annual survey of magistrates with disabilities carried out by the Judicial Office and reference was made to the need for review and evaluation of the findings published in the 'Equality Impact Assessment for Disabled Judicial Office-Holders' (there was no location reference to examine such a policy).

69. A magistrate felt that the Judiciary did not value the work of magistrates joining the bench with a disability and felt that a lip service policy had been fielded by HM Courts Service for many years to tick boxes thus a survey would have no beneficial effect on disabled magistrates. A magistrate felt that such questions should be put to all magistrates to establish the 'real picture'.

70. A small number of magistrates commented that the Magistrates' Association should have promoted the survey via e-news routinely for 3-6 months. This would have been normal practice for a disability survey and perhaps this a point to note for the future given the historical reach concerns raised by disability research.

71. The organisations and persons consulted, and the review panel for this report can be found at Annex 1. Not all reviewers or consultees have replied or made public comments.

3.8 Sampling

72. A sample is used to randomly identify a subgroup of magistrates who reported or identified with experiencing disabilities in the discharge of their office. The platform used to design the survey was Survey Monkey and the Magistrates' Association communications cascade lead to a very respectable response rate and negative impact was not reported through survey fatigue.

73. Representative sampling was achieved because of the ability to communicate directly with the target audience using the Magistrates' Association communication strategy. The sample was accurate and the design of the survey ensured that only magistrates with disabilities could participate in order that the sample remained accurate and proportional depiction of the policy population under study achieved.

74. In a study that seeks to obtain as many opinions of magistrates with disabilities as possible, it is not enough to cascade the survey to those who are known to make a possible contribution. That technique would only measure the perception or attitudes of those personally connected to the researcher at the time of the survey data collection process. Therefore, in order to prevent the researcher or the Magistrates' Association asking individual persons to contribute, and in order to be a truly independent representative sample, every magistrate with disabilities who have access to the cascade-agents had an equal chance of being chosen to participate in this survey. This is called randomisation. After this, stage individual magistrates can choose to participate by self-selecting.

3.9 Controlling marginal error

75. This survey cannot be regarded as a magistrates' with disabilities extrapolation or prevalence study attempting to determine an accurate measurement of how many magistrates with disabilities are in judicial office in England and Wales. There is not enough information known about the target population for that study to be undertaken at present. This study reports on the perceptions of the participants as evidenced.

76. However, it is possible to conduct such an extrapolation study in the future should it be required. Should that be necessary, anytime a researcher surveys a defined population there will be some mathematical margin of error in the results. However, should extrapolation be required by a stakeholder, the practitioner can control the level of error mathematically by using a specific confidence interval and sample size.

77. In those circumstances, the Judicial Office must:

³¹ *Magistrates Sentencing Guidelines Application*; Ambay Software Ltd. © 2014 <http://ambay.com/>

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- Research, screen and define the size of the target disability population.
- Determine the desired level of error.
- Determine the desired level of confidence.
- Calculate the sample size.

78. The level of error is measured as a percentage, as is the level of confidence. The level of confidence represents how confident the Judicial Office feels about their error level and indeed the screening and definition of the magistrates with disabilities population. This is particularly important because this survey indicates that up to 19.6% of Magistrates with disabilities may not have a statutory disability under the Equality Act 2010.

3.10 Duplication

79. The most common sampling error is duplication from within the sample, or instances where one of the target population elements is over-represented. This can produce biased results. This survey has duplication prevention strategy through IP address and mirror-image prevention of answers. The survey tools did not pick up any such errors and the survey communication cascade did not produce results targeted at an over-represented sample substrate.

3.11 Language and statistical representation

80. This survey is a random statistical sample of magistrates who self-identify with having a disability. As stated previously, it is not intended that this survey is an extrapolation study or theory which represents the entire disabled community of magistrates with disabilities. Such a study would and should be conducted by the Judiciary if so desired. The use of statistical information, therefore, relies on rigorous descriptive statistics that describe the sample data without drawing inferences about the larger magistrates with disabilities population. Where replicable variables have been identified, with data variants or substrates of data, for comparative purposes those statistics are inferential that describes the sample data by drawing inferences about the parameters of the magistrates with disabilities population sampled and studied. The Survey Monkey platform uses standard statistical methods for the presentation of cumulative frequency, frequency, mean media and the standard deviation measure of the variability from the average response and the distance of representation from the mean score. This would equally apply to variables, variants and correlated sub-selection of datasets. The correlation of data responses received (RR) and any variables or variants are entirely mathematically consistent within each survey answer and the Survey Monkey results checked manually to this effect. Finally, the response rate sometimes referred to as the internal response rate in statistical literature, represent the number of people who answered the survey request divided by the number of people in the sample; usually expressed as a percentage. An internal response rate (IRR) may occur, using the same methodological consideration, within a correlated sub-selection of data but using the identified parameters or represented as variable creating a substrate of data and comparable variant. Variants can be concatenated to form common or comparable substrates of correlated data.

81. Statistically, the basic Response Rate achieved is 27.8% in respect of the number of responses received as proportion of the potential target Judicial Office known disabled magistrate population. When the variant EqA(y) is applied the maximum potential Judicial Office Response Rate increases to 34.6% reflecting those who self-determine as statutory disabled. The basic Response Rate achieved is 37.1% in respect of the number of responses received as proportion of the potential Magistrates' Association known disabled magistrate population. When the variant EqA(y) is applied the Magistrates' Association maximum potential Response Rate increases to 49.4% reflecting those who self-determine as statutory disabled. The basic Statistical Response Rate is for academic statistical purposes only as the research does not seek to consider extrapolating the effect on all magistrates with disabilities for the reasons set out previously.

3.12 Data Protection Act 1998

82. Surveys of this nature are required to comply with the information security requirements of the Data Protection Act 1998. This means that steps on reporting results need to ensure that no personal data about an individual can be identified and the warranty of anonymity is properly enforced. Therefore, steps have been taken to oscillate any presentation of results (responses received or internal responses received only) which may provide an ability to identify an individual through impairment or reasonable adjustment deployed. Individuals, institutions or organisations are bound to respect the legal privacy of the data presented and the conditions of used imposed. Further information on impairment data and adjustments data can be requested from the author if it is needed for a specific and lawful purpose subject to compliance with Act.

3.13 Limitations of research

83. The generic focus of this research is led by action – a person or persons asking a fundamental question of a kind: “How can I or others improve the understanding of the needs of magistrates with disabilities within a post-positivist or new paradigm research philosophy?” Such research philosophy is limited to the relevant community perception, and personalised and political interpretation of the organisation and its cohort of participants. This sets an academic

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foundation for using a social model of disability research approach. The analysis of the politics of interpretation and textual analysis of literary and cultural forms including their production, distribution and assumption. Participants experience both qualitative and quantitative study and representations of these forms in everyday life. Moreover, this participatory inquiry seeks to be an 'investigative inquiry' of new pedagogical and interpretative practices that engage organisational cultural analysis in the court room, behind the scenes of the court house door and the local community context which it ultimately serves as a public service. Above all else, the research is limited to the utopian organisational politics of possibility (Madison, 1998) that redresses social injustice and imagines a radical change that is not yet a reality (Weems, 2002, P.3). This approach is sometimes referred to in organisational or management research as emancipatory or new paradigm research (Reason & Rowan, 1994) using post-experimental inquiry generating knowledge and criticism of about democracy, race, disability, class, identity, nationalism, freedom, international development, human rights and community. These needs are connected to the appearance of post-positivist arguments seeking to capture perception of real life experience, values and oppression to make them more visible and to transform the participants' world through a naturalistic approach to the world that exists rather than how the unconnected wish to present it.

84. All of this includes personal experience; introspection; life story; self-expression; artefacts; moral dilemma; cultural context; observational, historical, interactional; transactional and visual texts – that describe routine and problematic moments and meaning in individuals lives.

85. By contrast, positivist research regard qualitative or post-positivist or emancipatory new paradigm inquiry methods as unscientific, exploratory or subjective referred to as criticism rather than theory or science or interpretations politically as a paradigm for Marxism or secular humanism (Huber, 1995).

86. To address the issue of validity, post-positivism relies on multiple methods as a way of capturing as much of reality as possible with a measured and verification theory. Traditional evaluation criteria, such as internal and external validity, are stressed, as is the use of quantitative procedures that lend themselves to structured analysis. This is referred to as objective subjectivity (Reason & Rowan, 1994).

87. In the premises, this research acknowledges the limitations set out above. Participants are asked to identify by self-selection, through random communication channels, with specific aspects of judicial disability equality policy. The overall extent of the knowledge and the understanding of that policy is tested and captured in the survey to aid the internal validity or limitation of the perceptions recorded. Responses are assumed to be made with subjective bias because it may not be clear whether the participant is fully versed in the objective (and subsequent subjective) legal test contained within in any of the policies or practices referred to and this is a valid criticism of the research. This would include the definition of a disabled person under the Equality Act 2010, the reasonable person test applied in terms of the duty to make reasonable adjustments for a magistrate with a disability, the premise for bringing a prima facie case for under the Equality Act 2010 for the statutory tort³² of Disability Discrimination³³ and the basis for proving the same. Criticism of the research has also been drawn on whether a disabled person, under the strict medical model of disability practiced by the Judiciary adjustments policy, is capable of specifying his or her own needs as disabled people. These criticisms raise valid points.

Contradictions found in the Limitation of Equality Praxis versus Practice

88. Conversely, by the Judiciary's own policy declaration, practice and direction, the social model³⁴ of disability should be applied to judicial practice and the Criminal Procedure Rules and Practice Directions^{35 36} which requires the making of adjustments to be anticipatory³⁷ and lead by the needs of the disabled person. This is also consistent with the s149 of the Equality Act 2010 and the Directions of Lady Justice Hallett referred to in the Equal Treatment Bench Book. Furthermore, uniquely magistrates are required to know the reasonableness test under the Equality Act 2010 to make judicial determinations for request for adjustments or adaptations to premises, acquiring or modifying equipment and changes to a policy, criteria or procedure for defendants, victims or witnesses in any given case.

89. In particular the Criminal Procedures Rules stipulate that courts including magistrates must consider any steps the court may need to take under Criminal Procedures Rule 3.9(3) including measures or support needs including breaks for disability; or issues arising from mental health. Furthermore, Criminal Procedure Rules 3D General Matters (3D.1) including disability/vulnerable witnesses and (3D.2) adaptation and assistance; with Special Measures Directions³⁸ including S16 and S19 Youth Justice and Criminal Evidence Act 1999 to accommodate mental or physical disability.

³² Statutory Torts; Chapter 1; Pages 1-3, 10; *The Equal Treatment Bench Book*; Lady Justice Hallett; November 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

³³ *The Equality and Diversity Policy of the Judiciary*; 2013; Judicial Office; Pages 8-9; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/equality_diversity.pdf

³⁴ *The Equal Treatment Bench Book: Physical Disabilities*; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB-Physical_Disability_finalised_.pdf November 2013, *The judiciary of England and Wales, The Judicial Office, Page 3 paragraph 6*

³⁵ *Criminal Procedure Rules and Practice Directions*; 6 October 2014; Statutory Instrument SS 2014/1610

http://www.legislation.gov.uk/ukxi/2014/1610/pdfs/ukxi_20141610_en.pdf

³⁶ *Youth Justice and Criminal Evidence Act 1999 (d) S.16 and S.19*; <http://www.legislation.gov.uk/ukpga/1999/23/contents>

³⁷ 3 (2) (2) (b) *Early identification of the needs of witnesses*; 3 (9) (3) (b) *to facilitate the participation of any person, including the defendant*; *Case Management 2014; Magistrates Court Disclosure Review*; <http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/case-management-rules-extract-october-2014.pdf>

³⁸ *Part 29 Criminal Procedure Rules* <http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/crim-pr-form-part29-application-for-special-measures.pdf> Application for special measures pursuant to rule 29.3 to 29.10 Part B

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90. Particularly, follow the completion of the Magistrates Courts Disclosure Review, and changes to effective preparation for trials, the Criminal Procedure Rules 12(2) and 3(9) include special or other measures should accommodate disability^{39 40} including time taken to conclude trials.

91. Furthermore, the Criminal Procedure Rules (Parts):

- 29.3;
- 23.13;
- 29.17;
- 29.22;
- 29.26; and
- rules 1.1(2)(d) and 3.2(2)(b) and (f)

92. Provides some framework for delivering appropriate facilities in a courtroom to accommodate the disability needs of a defendant, witness or officer of the court. Magistrates need to be aware of their obligations under the Equal Treatment Bench Book and Equality Act 2010 whilst presiding over court proceedings or making judicial determinations as a fair trial would necessitate.

³⁹ *Criminal Procedure Rules 2014; Summary of Eligibility and Special Measures related to disability*; <http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/crim-proc-rules-2014-part-29.pdf>

⁴⁰ *Magistrates' Courts: Disclosure Review 2014; Case Management*; Judicial College; <http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/2014/crimpr-part3-magistrates-courts-trial-preparation-form.pdf> Page 5 footnote; Page 7 Measures to assist a witness or defendant to give evidence (*Criminal Procedure Rules, rr.29.3, 29.13, 29.17, 29.22, 29.26*)

Chapter 4:

Investigating Judicial Disability Policy and Comparators

Report into the Magistracy and Disability

4.1 The Auld Report: starting the reform of magistrate diversity

93. The Auld Report⁴¹ (The Right Honourable Lord Justice Auld, 2001) sought to reform the diversity of the magistracy with the intention of making the composition of benches reflect the society that we live in, and to connect users of Magistrates' Courts with representatives of the local community that they serve in the efficient discharge of summary justice. Gibbs (Gibbs, 2014) recently reflected on the broader diversity issue in her re-examination of magistrates' diversity and found despite some 13 years since the Auld Report, there remained a chronic under-representation of magistrates with protected characteristics⁴². Specifically, Gibbs states that magistrates are concerned that benches are increasingly unrepresentative of their community. Although Gibbs' equality analysis and detailed qualitative observations were unable to address the specific complexity of magistrates with disabilities, she particularly raises a contemporary concern:

.....

“That whole ethnic communities are excluded from the bench, and that working class magistrates are poorly represented. But they [Magistrates themselves] also identify many other excluded groups including Muslims, gay and [/or/] disabled people, those on benefits, and people who live in poorer areas. Magistrates are convinced that targeted and innovative recruitment techniques could increase applications from under-represented groups... If we want greater diversity in the magistracy it's not necessary to reinvent the wheel... many recommendations have been put forward; if we want a magistracy that represents the community it serves, government needs to break down the barriers to increasing diversity.”

.....

94. LJ Auld, justifiably, observed that magistrates were not wholly reflective of the community from which they are drawn and that 'there is scope for improvement, particularly, in the manner of their recruitment, so as to achieve a better reflection, nationally and locally, of the community, and in their training, so as to develop fairer, more efficient and more consistent procedures and sentencing patterns'. LJ Auld went on to conclude by stating 'if the magistracy is both to survive, and to earn public confidence, as a lay element in the administration of criminal justice, urgent steps must be taken to remove its largely unrepresentative nature'. Conversely, despite the existence of the Disability Discrimination Act 1995 some six years earlier, there was no comparable analysis presented in either commentary, save as to a reference to the Lord Chancellor's Blind Magistrates Trial (1999-2001), documenting the extent of under representation of magistrates with disabilities. Ironically, and some would argue discriminately, LJ Auld specifically qualifies that appointments of magistrates should be the subject of 'good health' to enable them to carry out all of the duties of a magistrate or 'appointment should not be considered if a disability prevents the requirements of the office'. Neither in the analysis of Gibbs or LJ Auld do they consider, at all, the merits of or legal duty to make reasonable adjustments to enable more disabled persons to become magistrates. In the premises, the position of disabled persons in satisfactory health, competent and well-attended; and with existing emphasis on a judicial policy requiring potential magistrates of 'good' health was sharply juxtaposed.

95. Shortly before the Auld Report, Lord Irvine of Lairg, Lord Chancellor between 1997 and 2003, had already pushed forward the 'Blind Magistrates' Trial' indicating the magistracy should engage equal opportunities⁴³ and the issue of magistrates with disabilities being accepted in to Judicial Office. Lord Falconer of Thoroton, Lord Chancellor between 2003 and 2007, launched the 'National Strategy for the Recruitment of Lay Magistrates'⁴⁴ and a further Judicial Diversity Strategy⁴⁵ in response to the findings of the Auld Report to address under-representation. No specific measures were included to address the under-representations of magistrates with disabilities. At this point in time, the Disability Discrimination Act 1995 did not include statutory protection for prohibited unlawful disability discrimination of magistrates with disabilities. According to Lord Faulkner of Thoroton, the Department of Constitutional Affairs devised an action plan on disability equality and judicial appointment in November 2005⁴⁶ and December 2005⁴⁷ but the terms of reference excluded potential magistrates with disabilities; instead primarily focusing on fee-paid judicial office-holders.

⁴¹ The Auld Report, Ministry of Justice, 2001 <http://webarchive.nationalarchives.gov.uk/+/http://www.criminal-courts-review.org.uk/auldconts.htm>

⁴² Protected characteristics, S149 The Equality Act 2010, UK Parliament, Public Equality Duty <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

⁴³ Judicial Appointments: Balancing Independence, Accountability and Legitimacy; Judicial Appointments Committee; Professor Jeffrey Jowell QC; Lord MacKay of Clashfern; Jonathan Sumption OBE QC; Baroness Prashar CBE; Mr Justice Hickinbottom; Shami Chakrabarti CBE; Her Honour Judge Frances Kirkham; Lady Justice Hallett DBE; 2010; http://jac.judiciary.gov.uk/static/documents/JA_web.pdf

⁴⁴ National Strategy for the Recruitment of Lay Magistrates'; 2003;

http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/magist/recruit/natstrat_magrecruit_full.pdf

⁴⁵ Judicial Diversity Strategy; 2006;

http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/publications/reports_reviews/judicial_diversity_strat.pdf

⁴⁶ Disability Equality and Judicial Appointment; 2005;

http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/publications/reports_reviews/disequ_actionplan.pdf

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96. Judicial Office official magistrate retention statistics⁴⁸ show, that on the 31 March 2014, there were 21,704 magistrates in post and of which 906 (4.17%) had self-identified as having a disability. The nature and extent⁴⁹ of magistrate impairment, disability and engagement with the range of disability related judicial equality policies are not currently documented in disability research literature. Therefore, this report seeks to constructively engage those with an interest in improving the existing representation of magistrates with disabilities and identify the themes, barriers and opportunities to potentially improve the overall recruitment or retention opportunities within the magistracy of the target group.

97. Moreover, Sir Brian Leveson⁵⁰ published a series of wide-ranging reforms arising from his review of efficiency in Criminal Proceedings having reflected on the Auld Reforms from the previous decade. His commentary included investment in training of magistrates, improved Information Technology and improved judicial procedures or practices in the discharge of summary justice to make efficiency gains.

98. The current disability policy for recruiting magistrates into judicial office is not considered in this study because there is no publicly available strategy or policy document.

4.2 Identifying the Policy, Practice or Issue for the Purpose of Research

99. As head of the Judiciary of England and Wales, the constitutional office of the Lord Chief Justice is responsible for managing appropriate arrangements for the welfare, training and guidance of magistrates and for their deployment. The Lord Chief Justice and the Senior President of Tribunals also have constitutional responsibility for the formulation, deployment and review of the 'Equality and Diversity Policy for the Judiciary'. The occupant of the office discharges this responsibility through a hierarchy of Leadership Judges. In terms of the magistracy, the Lord Chief Justice relies principally on Bench Chairmen to lead on his behalf. A number of judicial policy documents are said to be in operation that intend to support magistrates with disabilities to retain their Judicial Office and be offered equal opportunity in their judicial career (as is afforded to Magistrates without disabilities). The array of policy documents include:

- i. The Code on Judicial Conduct⁵¹
- ii. The Equality and Diversity Policy for the Judiciary⁵²
- iii. The Dignity at Work Statement⁵³
- iv. Judicial Guide to the Equality Act 2010^{54 55}
- v. The Criminal Procedure Rules (SI 2014/1610)⁵⁶
- vi. The Equal Treatment Bench Book⁵⁷
- vii. Youth Justice and Criminal Evidence Act 1999⁵⁸
- viii. The Judicial Conduct (Magistrates) Rules 2013⁵⁹
- ix. The Lord Chief Justice Practice's Direction to Bench Chairman⁶⁰
- x. The Bench Chairman's Role Description⁶¹
- xi. The Lord Chancellor and Secretary of State's Directions for Advisory Committees on Justices of the Peace⁶²

100. Accordingly, during October 2012, the Judicial Office announced that The Lord Chief Justice and the Senior President of Tribunals, in order to comply with s109 of the Equality Act 2010, issued written guidance on equality and

⁴⁷ Update: Disability Equality and Judicial Appointment; 2005;

http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/publications/reports_reviews/disequ_progressrep.pdf

⁴⁸ Magistrates Retention Statistical Data; Ministry of Justice; 2014; <http://www.judiciary.gov.uk/publication-type/statistics/>

⁴⁹ Disability in the United Kingdom 2013; Facts and Figures; Papworth Report; Equality, Choice, Independence;

<http://www.papworthtrust.org.uk/sites/default/files/Facts%20and%20Figures%202013%20web.pdf>

⁵⁰ The Rt. Hon Sir Brian Leveson, January 2015 <http://www.judiciary.gov.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf>

⁵¹ The Code on Judicial Conduct; March 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/judicial_conduct_2013.pdf March 2013, The Judiciary of England and Wales, The Judicial Office

⁵² The Equality and Diversity Policy for the Judiciary; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/equality_diversity.pdf October 2012, The Lord Chief Justice of England and Wales, Senior president of Tribunals, The Judicial Office

⁵³ The Dignity at Work Statement; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/judicial_conduct_2013.pdf March 2013, The Judiciary of England and Wales, The Judicial Office, Appendix 1, Page 30

⁵⁴ The Equality Act 2010; <http://www.legislation.gov.uk/ukpga/2010/15/contents?view=plain> UK Parliament

⁵⁵ Judicial Guide to Equality http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/judicial_conduct_2013.pdf March 2013, The Judiciary of England and Wales, The Judicial Office, Appendix 2, Page 32

⁵⁶ The Criminal Procedure Rules SI 2014/1610; Ministry of Justice; <http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu>

⁵⁷ The Equal Treatment Bench Book; <http://www.judiciary.gov.uk/publications/equal-treatment-bench-book/> 24 March 2011, The Judiciary of England and Wales, The Judicial Office

⁵⁸ The Youth Justice and Criminal Evidence Act 1999; UK Parliament <http://www.legislation.gov.uk/ukpga/1999/23/contents>

⁵⁹ The Judicial Conduct (Magistrates) Rules 2013; http://judicialconduct.judiciary.gov.uk/documents/Judicial_Conduct_%28Magistrates%29_Rules_2013.pdf

The Lord Chief Justice, The Lord Chancellor, exercise of the powers conferred by sections 115 and 117 of the Constitutional Reform Act 2005, and regulation 7 of the Judicial Discipline (Prescribed Procedures) Regulations 2013

⁶⁰ The Lord Chief Justice's Directions to Bench Chairman, The Judicial Office, November 2008; August 2014 (as amended)

⁶¹ A guide for bench chairman, The Bench Chairman's role, The Judicial Office, 1111208.pdf 1 December 2008

⁶² The Lord Chancellor's Directions to Advisory Committees; July 2013 <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/lord-chancellors-directions-advisory-committees-part1.pdf>

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diversity. The Lord Chief Justice advised that The Judicial Executive Board has therefore approved the following two documents:

- i. A 'Dignity at Work Statement' setting out the standards of conduct we expect judicial office-holders to maintain in their dealings with one another and with members of staff
- ii. A 'Brief Guide to the Equality Act 2010' outlining the major provisions within the Act as they may affect the judiciary

101. The Lord Chief Justice further states 'Together with this covering statement, these two documents set out our policy on equality and diversity. This policy applies to all members of the courts and tribunals judiciary in England and Wales, including fee paid, non-legal office-holders, magistrates and all other lay office-holders, and to reserved tribunals' judiciary operating in Scotland and Northern Ireland. Whilst the Lord Chief Justice and Senior President of Tribunals are ultimately responsible for its implementation, every office-holder has an individual responsibility to abide by it.'

102. The Policy includes prohibited unlawful disability discrimination of a disabled judicial office-holder and implementation of policy for making reasonable adjustments. The policy further adopts the Codes of Practices of the Equality Act 2010 for purpose of judicial guidance.

103. Insofar as implementation of relevant policy in judicial conduct is concerned, on 21 March 2011 Lady Justice Hallett advised the Judiciary of England and Wales that an Equal Treatment Bench Book, a guide for judges, magistrates and all other judicial office-holders, has been revised and updated having regard to The Equality Act 2010, which Lady Hallett reported as 'has the effect of strengthening and harmonising all our anti-discrimination law and created important new duties and rights'. Moreover, Lady Hallett reported that 2012 saw the introduction of an 'Equality and Diversity Policy' for all judicial office-holders in England and Wales⁶³. Lastly, Lady Hallett went on to conclude that 'The Equal Treatment Bench Book had been revised to reflect these and other recent developments'.

4.3 Funding Judicial Equality: Cost, Investment and Efficiency in Criminal Proceedings

104. Some 10 years after the Auld Report and organisational challenge to achieve greater efficiency in magisterial judicial practice; the Ministry of Justice states⁶⁴ that HM Courts and Tribunal Service has a gross annual budget of around £1.7bn per year. The Judiciary of England and Wales is constitutionally supported by HMCTS and the following operational activities or parameters describe the terms of its business operations and/or the engaged or operational productivity policy:

- HM Courts & Tribunals Service was created on 1 April 2011. It brings together HM Courts Service & Tribunals Service into one integrated agency providing support for the administration of justice in courts and tribunals. HM Courts & Tribunals Service is an agency of the Ministry of Justice. It uniquely operates as a partnership between the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals as set out in the prescribed Framework Document. The agency is responsible for the administration of the criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Scotland and Northern Ireland. It provides for a fair, efficient and effective justice system delivered by an independent judiciary.
- HM Courts & Tribunals Service aims to ensure that all citizens receive timely access to justice according to their different needs, whether as victims or witnesses of crime, defendants accused of crimes, consumers in debt, children at risk of harm, businesses involved in commercial disputes or as individuals asserting their employment rights or challenging the decisions of government bodies.
- From April 2011 the agency employs 21,000 staff operating from around 650 locations. It has a gross annual budget of around £1.7bn, approximately £585m of which is recovered in fees and income from service users. Annually, it handles over 2 million criminal cases, 1.8 million civil claims, more than 150,000 family law disputes and almost 800,000 tribunal cases annually.
- Specifically, the Framework Document considers that the HM Courts & Tribunals Service works with a range of Government departments and justice agencies to ensure access to justice is provided in the most timely and effective way possible. To this end, a Board headed by an Independent Chair that is reported as working with non-executive, executive and judicial members oversees the agency's work. The board ensures that the agency delivers the aims and objectives set by the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals.
- On 31 March 2013, The Judicial Office statistical publications noted⁶⁵ that there were 3,261 paid⁶⁶ members of the Judiciary of England and Wales, 5,276 paid judicial office-holders recorded as Tribunal

⁶³ And reserved tribunals' judiciary operating in Scotland and Northern Ireland

⁶⁴ Ministry of Justice; Particulars of Business; 2014 <http://www.justice.gov.uk/about/hmcts>

⁶⁵ The Judicial Office; Diversity Publications; 2014 <http://www.judiciary.gov.uk/publications/diversity-statistics-and-general-overview-2013/>

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Members of the Judiciary of England and Wales and 21,704 magistrates in post. The Judicial Office recorded that 906 magistrates (4.17%) had self-identified as having a disability.

- A review⁶⁷⁶⁸ of HM Courts and Tribunal Service annual accounts, business plans, delivery framework and published research did not provide an indication of the cost or benefits derived from equality compliance pursuant to s149 of the Equality Act 2010 and or the operation of the 'Code on Judicial Conduct' or the 'Equality and Diversity Policy'⁶⁹ for the Judiciary of England and Wales'.
- In terms of operational costs deployed, the Ministry of Justice states that, as of 31 March 2014, the relevant courts or judicial institution provided a reasonable adjustment service for up to 906 magistrates with disabilities within the overall budget support and administration service provided to 21,704 magistrates sitting in England and Wales. There is no separate recognition or accounting entry for the service and the narrative descriptor⁷⁰ excludes Justices of the Peace instead referring only to HMCTS staff and customers. The last recorded independent industrial engineering comparison on magistrates and district judge efficiency on a with like-for-like analysis basis was undertaken by Russell and Morgan et al⁷¹ (referred to in the Auld Report) and more recently by the Ministry of Justice⁷², which concluded that despite the relative speed by which District Justices handle cases, the cost model shows that district judges are typically more costly⁷³ per case than magistrates in terms of Magistrates' Courts processing costs.
- In the fiscal year 2009-2010, the business cost of supporting and administering magistrates in post amounted to £19m circa⁷⁴ or £825 per Magistrate or also annotated as £26.80 per hour for a bench of three magistrates, roughly £9 per hour per magistrate or 2,126,992 man hours. Using the same transactional analysis and industrial engineering parameters as Russell and Morgan et al and the more recent MOJ study, this equates to circa 710,000 magistrates courts business hours per annum and would require legal or associate legal adviser of circa £9.6m to £22.3m costs per annum. The like for like comparator with DJ costs in the same jurisdictions is a cost range circa £28.6m to £41.4m per annum.
- The comparative district judge or deputy district Judge average hourly cost of £148.32 to £162.16 per hour (£162.16 per hour referred to as the DJ gold standard in cost modelling) amounting to 466,550⁷⁵ man hours per annum at a cost of £75.5m to £90.3m including legal associates costs identified in the previous transactional studies.
- For the avoidance of doubt, both costs include legal or legal associate costs provided to either a district judge or magistrate in the conduct of cases at between £13.56 and £31.54 per hour dependant on the tier of advice or support provided to individual jurisdictions.
- The Ministry of Justice efficiency study noted that the cost of retaining a district judge included employment, recruitment, expenses, training and equipment. The cost of retaining a magistrate included claims for loss of earnings, recruitment, judicial expenses⁷⁶⁷⁷, training and advisory committee costs. There was no appreciable differentiation in premises costs or other support costs per court house between either cost model for retaining district judges or magistrates and therefore have not been noted here. The Morgan and Russell et al and MOJ study noted the presence of a legal adviser in court had a cost average of £31.54 per hour and it was noted that court legal associate staff costs, including advisers/clerks/associates were incurred by both Magistrates and District judges in circa range of £13.56 to £31.54 per hour. The hourly cost of other staff was the same regardless of whether a magistrate or district judge conducted the case.
- The Case Cost [C] = Hourly (DJ or 3 x Magistrates cost [C]) + hourly premises cost [C] + Hourly clerk/legal adviser cost [C] + hourly cost [C] of other staff x the Time [T] the case lasts (in hours or granulated in units of time). Savings in time [T] are theoretically savings in effective productivity costs or actual savings in operational costs.

⁶⁶ *Judicial Appointments; Chapter 3; Diversity; Constitution Committee; House of Lords Select Committees; UK Parliament; Hansard 272/27206 2013; <http://www.publications.parliament.uk/pa/ld201012/ldselect/ldconst/272/27206.htm>*

⁶⁷ *The Ministry of Justice; Annual Accounts and Reports; 2014; <http://www.justice.gov.uk/publications/corporate-reports/hmcts>*

⁶⁸ *HMCTS Annual Report 2011-2012; The Stationary Office; London; 2012; Page 24; <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmcts/2012/hmcts-annual-report-2011-12.pdf>*

⁶⁹ *The Diversity and Equality Policy for the Judiciary of England and Wales; Judicial office; October 2012; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/equality_diversity.pdf*

⁷⁰ *HMCTS Annual Report 2011-2012; The Stationary Office; London; 2012; Page 24; <http://www.justice.gov.uk/downloads/publications/corporate-reports/hmcts/2012/hmcts-annual-report-2011-12.pdf>*

⁷¹ *The Auld Report, Ministry of Justice, 2001 <http://webarchive.nationalarchives.gov.uk/+http://www.criminal-courts-review.org.uk/auldconts.htm>*

⁷² *Magistrates: - representatives of the people?; Penelope Gibbs; Transform Justice; 2014; http://transformjustice.org.uk/?page_id=10*

⁷³ *The strengths and skills of the Judiciary in the Magistrates' Courts; Ministry of Justice Research Series 9/11; November 2011.*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217366/strengths-skills-judiciary.pdf

⁷⁴ *Magistrates Expenses; Judicial Office; 2013; <http://www.judiciary.gov.uk/about-the-judiciary/judges-career-paths/terms-of-service/judicial-expenses/>*

⁷⁵ *140 District Judges (Magistrates Court) 170 Deputy District Judges (Magistrates Court); Operating Costs over 330 Magistrates Courts; 215 contracted days per year; 7 hours per day; Who are Magistrates publication; Judicial Office; <http://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/magistrates-court/>*

⁷⁶ *Fee Paid Judiciary Expenses; Ministry of Justice; 2013; <http://www.judiciary.gov.uk/about-the-judiciary/judges-career-paths/terms-of-service/judicial-expenses/>*

⁷⁷ *Magistrates Expenses Policy; September 2014; Ministry of Justice; Headings of claim: Financial Loss; Travel Expense; Subsistence; Childcare costs; Carer costs; Travel allowance; Private motor insurance; Magistrates Motor Insurance; Air Travel.*

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- Interestingly based on existing studies, to replace all the 21,704 magistrates with a smaller district judges cohort would require a further 471 – 500 district judges depending on which industrial engineering efficiency analysis is more reliable. That would incur, based on the existing transactional analysis studies, annual costs of a range circa £105.1 to £114.9m at the bottom of the scale or £111.1m to £122m on the top of the scale. In such circumstances, the total cost of a district judge operated summary justice jurisdiction would in effect operate at a cost of the circa range £174m - £197m per annum. Conversely, based on the same modelling, providing a solely JP operated summary justice jurisdiction would in effect operate at a cost of the circa range £44.9 to £70m per annum. Significantly, any reduction⁷⁸ in the number of magistrates is likely to have a consequential effect on representation and diversity⁷⁹ of the judiciary which Parliament states could continue to undermine community justice⁷⁹.

105. The issue of Magistrates' efficiency in the disposal of case management, hearings and trials continues to be the subject of much political speculation but there are few independent industrial engineering or transaction-based efficiency research outputs to determine the overall best-level of efficiency drivers, behaviours and benefit realisation. Computerisation and integrated software application management will certainly be factors in future efficiency realisation. Conversely, the issue of district judges efficiency appears not to have been considered at all in the Auld, Morgan and Russell et al or the more recent MoJ efficiency analysis, despite the comparative expense between the two resourcing models. Further, as district judges use the Magistrates Courts' infrastructure across 330 court houses designed historically to operate services for 21,704 or more magistrates, the comparative industrial analysis of the like-for-like infrastructure supporting district judges cannot be properly drawn as there is no economical scale set out in the existing studies.

106. In response to the Austerity Era, the Magistrates' Association recently commissioned statistical research (Mason, 2015) into the statistical cost differentials between deploying lay benches and paid district judges. The statistical analysis found that the lay benches were substantially lower in cost, statistically, which corroborates the standing view of previous research⁸⁰. Further opportunity arising from the Mason report would include looking at the totality of operated cost for the entire jurisdiction, the distribution of operated manpower hours and the consideration of wasted magistrates' manpower cost due to court administration or inefficiency involved in completing court lists. These considerations would improve the lay justice jurisdiction financial performance and improve the added financial-contribution value to the community in the face of government funding cuts and austerity. Interesting, none of the featured industrial engineering reports focus on the business savings potential driven by the experience, expertise and a value-added activity model achieved by running varying proportionalities of a combined lay and district judge summary jurisdiction.

107. In the comparative Justice of the Peace jurisdiction in Scotland, there is both political and judicial discussion of the need to professionalise the District Courts. Furthermore, remuneration⁸¹ is being considered, and there are specific provisions in the Criminal Proceedings etc. (Reform)(Scotland) Act 2007 and the Court Reforms (Scotland) Act 2014^{82,83} are driving a productivity-based consultation⁸⁴ towards a judicial focus on improved equality and diversity training⁸⁵ as well as IT and court computerisation training, amongst other competences, to improve Justices of the Peace performance.

108. The Leveson review (Leveson, 2015) made recommendations for further efficiencies to transform summary justice in response to Government cuts to date and to bring about future efficiencies arising from further cuts in the courts budgets planned in the next spending round and beyond. The implications of this review will have an impact on all magistrates disabled or not on time saved, cost savings and higher quality outcomes in judicial decision-making. In particular the objectives of the report state: "Review the Criminal Procedure Rules to ensure that maximum efficiency is required from every participant within the system". Leveson⁸⁶ goes on to observe:

"The work of the criminal justice system currently relies on a combination of long-standing manual processes and aging computer systems that have evolved in a piecemeal fashion over many decades. There is no doubt

⁷⁸ Constitution Committee; House of Lords; Judicial Diversity Statistics; 2011;

<http://www.publications.parliament.uk/pa/ld201012/ldselect/ldconst/272/27215.htm>

⁷⁹ Judicial Appointments; Chapter 3; Diversity; Constitution Committee; House of Lords Select Committees; UK Parliament; Hansard 272/27206 2013;

<http://www.publications.parliament.uk/pa/ld201012/ldselect/ldconst/272/27206.htm>

⁸⁰ The strengths and skills of the Judiciary in the Magistrates' Courts; Ministry of Justice Research Series 9/11; November 2011.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217366/strengths-skills-judiciary.pdf

⁸¹ Justices of the Peace – a case for remuneration; Scottish Justices' Association; 2009; Scottish Government Cabinet Secretary for Justice;

http://www.scottishjustices.org/wp-content/uploads/2013/08/2009jp_remunerationcase.pdf

⁸² Court Reform (Scotland) Bill; Policy Memorandum; 2014; Scottish Courts Service; <http://www.scotland-judiciary.org.uk/Upload/Documents/JPTTrainingConsultationFinal.pdf>

⁸³ Equalities Outcomes Consultation; Scottish Courts Service; 2013; [https://www.scotcourts.gov.uk/docs/default-source/eag/minutes/eag-mins-feb-2013-\(approved\).docx?sfvrsn=4](https://www.scotcourts.gov.uk/docs/default-source/eag/minutes/eag-mins-feb-2013-(approved).docx?sfvrsn=4).

⁸⁴ Consultation on training of JP's in Scotland; Scottish Courts Service; 2014; <https://www.scotcourts.gov.uk/about-the-scottish-court-service/scs-news/2014/05/21/consultation-on-training-of-jp%27s-in-scotland>

⁸⁵ Justices Training: Focus on Diversity and Equality; Scottish Justices Association and the Equality Commission (EHRC) ; 2013-14;

<http://www.scottishjustices.org/wp-content/uploads/2013/06/Scottish-Justice-News-May-13.pdf>

⁸⁶ Review of Efficiency in Criminal Proceedings; Rt Hon Sir Brian Leveson; January 2015; Page 10; <http://www.judiciary.gov.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf>

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that to increase the efficiency of the system, we need better, quicker and less costly ways of creating, filing and distributing documents; easier and more flexible ways of enabling all those involved in the process to communicate effectively with one another. We need to reduce the number of hearings at which the participants have to attend in person. It is critical that we avoid duplication of work (such as “re-keying” the same information) and that we reduce administrative errors. Well-constructed IT has the potential to overcome most of these challenges. One essential element of the developing landscape in this context is the “CJS Common Platform”. It has the potential to make such fundamental changes that it is worth explaining at this early stage. It will provide a comprehensive, online case-management system. At the very outset of criminal proceedings, following charge, the police will make all the relevant documentation available via a digital case file, to which the Crown Prosecution Service will be provided access. Any prosecution material in the proceedings will only need to be entered onto the system once (thereby avoiding any re-typing/re-keying) The parties and the judiciary will be able to work on the electronic “papers”, privately highlighting, editing, and making comments. Whilst the development of the processes that are necessary for this radical change is a complicated undertaking, the financial savings that will be brought about by eliminating paper and the increase in efficiency should be very considerable. “

4.4 Judicial Implementation of the ‘Public Sector Equality Duty’

109. On 5 April 2011, The Lord Chief Justice advised the Judiciary of England and Wales that Section 149 of The Equality Act 2010, also commonly known as the ‘Public Sector Equality Duty’, came into force across Great Britain. It means that the Judiciary, save as to making judicial determinations, have to consider all individuals when carrying out their day-to-day work: in shaping policy, in delivering services and in relation to their own employees [office-holders]. It also requires that the Judiciary:

- i. Have due regard to the need to eliminate discrimination;
- ii. Advance equality of opportunity;
- iii. Foster good relations between different people when carrying out their activities;
- iv. Publish relevant information showing compliance with the Equality Duty and set objectives.

4.5 Incorporating the Equality Act 2010 into Judicial Practice

110. Further, on 24 March 2011, Lady Justice Hallett⁸⁷ incorporated the Equality Act 2010 provisions and new duties and rights into the Equal Treatment Bench Book which sets out the Judiciary’s expectations for delivering fair treatment to judicial office-holders, court staff and court users and describes the purpose as:

“Fair treatment is a fundamental principle embedded in the judicial oath, and it is therefore a vital judicial responsibility. Treating people fairly requires awareness and understanding of their different circumstances, so that there can be effective communication and so that steps can be taken, where appropriate, to redress any inequality arising from difference

⁸⁷ *The Equal Treatment Bench Book*; <http://www.judiciary.gov.uk/publications/equal-treatment-bench-book/> 24 March 2011, *The Judiciary of England and Wales, The Judicial Office; Introduction; Page 1*

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or disadvantage. This work covers some of the important aspects of fair treatment about which we should all be aware. It also makes some suggestions as to steps that judges may wish to take, in different situations, to ensure that there is fairness for all those involved in the justice process.”

4.6 Judiciary adopts the Social Model of Disability

111. Furthermore, Sections 7⁸⁸ and 8 the Equal Treatment Bench Book, dated March 2013, provides further direction of judicial disability equalisation policy and social orientation by stipulating that the Judiciary of England and Wales:

“Adopts the Social Model of Disability which sees the problem as arising from the barriers constructed by society rather than in the physical or mental impairment of the individual – the so called medical model. Thus, to the wheelchair user the problem is that the building has steps but no ramp and to the hearing-impaired person the problem is that the venue does not have the loop system. The UN Convention of the Rights of People with Disabilities 2006⁸⁹, which is binding on UK courts and tribunals, defines persons with disabilities as including those who have long term physical, mental, intellectual or sensory impairments which, in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

4.7 Identify Scope of Judicial Disability Policy and Practice

112. The extent of existing judicial disability retention policy is limited⁹⁰, by way of public reference, to prohibiting unlawful disability discrimination contrary to the Equality Act 2010 in the following scenarios:

- i. The Lord Chancellor and The Lord Chief Justice complying with their obligations under the Equality Act 2010 owed to judicial office-holders, members of the court staff, court users and members of the public;
- ii. HM Courts and Tribunal Service and Judicial Office-Holders complying with their obligations, under the Equality Act 2010, owed to the public accessing court services; and
- iii. Judicial office-holders complying with the Equality Act 2010 with regard to their professional judicial conduct towards other judicial office-holders and outwardly towards court staff, court users and members of the public.

4.8 Judicial Disability Policy: Prohibited unlawful disability discrimination

113. Specifically, The Code on Judicial Conduct⁹¹, also referred to in the appropriate Guide to Judicial Conduct (2013), states that the following six principles should be followed by Judicial Office-Holders to establish standards of ethical conduct and “affords the judiciary a framework for regulating judicial conduct”:

- i. Judicial Independence;
- ii. Impartiality;
- iii. Integrity;
- iv. Propriety;

⁸⁸ The Equal Treatment Bench Book: Physical Disabilities; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB-Physical_Disability__finalised_.pdf November 2013, The judiciary of England and Wales, The Judicial Office, Page 3 paragraph 6

⁸⁹ Article 1. UNCRPD Entered into force on 3 May 2008 and both UK and the EU are signatories to the Convention. www.un.org/disabilities

⁹⁰ Criminal Procedure Rules and Practice Directions; 6 October 2014; Magistrates Disclosure Review 2014.

⁹¹ The Code on Judicial Conduct; March 2013; Judicial Office; http://www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/judicial_conduct_2013.pdf

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- v. Equality; and
- vi. Competence and Diligence.

114. The Code on Judicial Conduct framework mandates that principles (iii), (v) and (vi) are fundamental to any allegation of unlawful or prohibited judicial conduct against any person with a protected characteristic under Equality Act 2010, the enforcement of the code and the Judicial Oath sworn by any relevant person (a Judicial Office-Holder). Moreover, the Code on Judicial Conduct principle of integrity further directs that:

- i. “There should be no bias or prejudice towards a disabled person... In the case of those with a disability care should be taken that arrangements made for and during a Court hearing do not put them to a disadvantage”.
- ii. “As the words of the judicial oath makes clear, the principles of exercising equality and fairness of treatment have always been fundamental to the role and conduct of the judiciary when carrying out their judicial functions”.
- iii. “These principles should be also reflected in conduct outside court”.
- iv. To comply with Section 149 of the Equality Act 2010, the Lord Chief Justice has issued written guidance on equality and diversity. The Judicial Executive Board has approved the following two documents setting out their policy on equality and diversity; namely “A dignity at work statement setting out the standards of conduct they expect judicial office-holders to maintain in their dealings with one another and with members of staff (Appendix 1)”; and “A brief guide to the Equality Act 2010 outlining the major provisions within the Act as they affect the judiciary (Appendix 2).

115. The Lord Chief Justice stated: “that at all times when discharging any administrative, judicial leadership or judicial function you will treat everyone equally”. Further, the Lord Chief Justice draws particular attention to judicial office-holders conduct in respect of:

- i. The judiciary involved in the selection, appointment or promotion within the judiciary;
- ii. Members of the judiciary involved in the training, mentoring, appraisal, deployment and or pastoral care of judicial colleagues will also act so as to promote equality of opportunity and treatment for all those in respect of whom they have responsibility;
- iii. Members of the judiciary will treat all judicial colleagues and other individuals with whom they come into contact in the course of performing their extra-judicial functions with courtesy and with due respect for their personal dignity;
- iv. Where a person raises a concern about discrimination in the above context, members of the judiciary will not treat that person any differently on that account.

116. The Lord Chief Justice goes on to state that failure or alleged failure to comply with the terms of this policy may be dealt with, as appropriate, pursuant to the relevant procedures.

117. The policy for recruiting magistrates with disabilities is not considered in this report.

4.9 Enforcement of the Equality Act 2010: Judicial Practice

118. By way of enforcement, a Judicial Office-Holder is entitled to bring a claim for any statutory tort⁹² arising from disability discrimination whilst sitting as a magistrate. Similarly, a court user or member of public has the right to bring a claim for any tort arising from disability discrimination whilst receiving a service at court. Further, the ‘Code on Judicial Conduct’ and the ‘Equality and Diversity Policy of the Judiciary’ prohibits any judicial conduct amounting to unlawful discrimination of a qualifying disabled person who is a judicial office-holder. Moreover, save as to bringing a legal action in the courts, the specific mechanisms or format for invoking a judicial complaint relating to disability discrimination referred to in such policy documents are not specified. For example, if a magistrate with a disability requires a reasonable adjustment and this is not provided, a breach of the Equality Act 2010 and a breach of the Code on Judicial Conduct may occur. The Equality and Diversity Policy of the Judiciary states⁹³ that a failure to make a reasonable adjustment for a magistrate with disabilities is prohibited unlawful disability discrimination and appropriate action will be taken.

119. Prior to 1 October 2013, the right for a magistrate to sue for unlawful discrimination in the courts or tribunals was a moot point; after that date, it was plain it was: see section 50(2)(d) of the Equalities Act 2010. Magistrates (and potential magistrates) could claim for discrimination, harassment and victimisation against a “relevant person” – a complex

⁹² *Statutory Torts; Chapter 1; Pages 1-3, 10; The Equal Treatment Bench Book; Lady Justice Hallett; November 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf*

⁹³ *The Equality and Diversity Policy of the Judiciary; 2013; Judicial Office; Pages 8-9; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/equality_diversity.pdf*

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term, defined by section 52(6) of the Equalities Act 2010. They were now within the statutory definition of “public office holder”.

4.10 Judicial Disability Policy: Public Office-Holders

120. There is no statutory definition of the word 'office'. It has been judicially defined as a

'permanent, substantive position which had an existence independent from the person who filled it, which went on and was filled in succession by successive holders.'

[Rowlatt J in Great Western Railway Company v Bater 8TC231.]

121. That definition was approved in the more recent case of Edwards v Clinch [56TC367] with the proviso that a post need not be capable of permanent or prolonged existence but it must have an endurance at least beyond the tenure of one man. Buckley LJ stated

'An office in this context is, in my opinion, a post which can be recognised as existing, whether it be occupied for the time being or vacant, and which, if occupied, does not owe its existence in any way to the identity of the incumbent or his appointment to the post. It follows, I think, that the office must owe its existence to some constituent instrument, whether it be a charter, statute, declaration of trust, contract (other than a contract of personal service) or instrument of some other kind. It also follows, in my view, that the office must have a sufficient degree of continuity to admit of its being held by successive incumbents: it need not be capable of permanent or prolonged or indefinite existence, but it cannot be limited to the tenure of one man, for if it were so it would lack that independent existence which to my mind the word “office” imports. It may be that it should in some degree possess a public character, but it is not necessary to decide that point in this case, for the taxpayer’s functions in respect of which fees were received undoubtedly had such a character.'

122. When the same case reached the House of Lords, Lord Wilberforce said

'For myself I would accept that a rigid requirement of permanence is no longer appropriate, nor is vouched by any decided case and continuity need not be regarded as an absolute qualification. But still, if any meaning is to be given to “office” in this legislation, as distinguished from “employment” or “profession” or “trade” or “vocation” It must denote a post to which a person can be appointed, which he can vacate and to which a successor can be appointed.'

123. Specifically, a public-office⁹⁴ holder is referred to under the Equality Act 2010. Justices of the Peace are specifically regarded as judicial office-holders which is a position established by law for the purpose of exercising authority

⁹⁴ The Equality Act 2010; Part 5; Office-Holders; <http://www.legislation.gov.uk/ukpga/2010/15/part/5/chapter/1/crossheading/officeholders>

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of a court in the service of the public. The paid Judiciary and Tribunal Members are also regarded as judicial office-holders. The commonality between all public office-holders requires the occupant to have independence and as such cannot be 'employed' to ensure the public are satisfied with the integrity of his or her office.

124. The following have been accepted as holding a public-office by the courts over several centuries:

- i. Members of Parliament⁹⁵ Cm 2850-I, P14 Back
- ii. Coroner (1675) R v Parker 2 Lev 140
- iii. Constable (1703) R v Wyatt 1 Salk 380
- iv. Accountant in the office of the Paymaster General (1783) R v Bembridge (3) Doug K.B. 32
- v. Justice of the Peace (1791) R v Sainsbury (4) T.R 451
- vi. Executive or ministerial officer (1819) R v Friar 1 Chit.Rep (KB) 702
- vii. Gaoler (1827) R v Cope (6) AE 226
- viii. Mayor or burgess (1828) Henly v Mayor of Lyme (5) Bing 91
- ix. Overseer of the poor (1891) R v Hall 1 QB 747
- x. Army officer (1914) R v Whitaker 10 Cr.App.R.245
- xi. County Court registrar (district judge) (1968) R v Llewellyn-Jones 1 Q.B.429
- xii. Police officer (1979) R v Dytham 69 Cr.App.R.387
- xiii. Council maintenance officer (1995) R v Bowden 4 All E.R 505
- xiv. Local councillor (2004) R v Speechley [2004] EWCA Crim 3067
- xv. Member of the Independent Monitoring Board for prisons (2010) R v Belton R v Belton [2010] EWCA Crim 2857
- xvi. Judges (2013) O'Brien v MoJ (2013) UKSC 6

125. Following the case of O'Brien v Ministry of Justice, the establishment of judicial office-holders confirmed protection under the Equality Act 2010 public office-holder provisions.

126. A review of the Office of Parliamentary Counsel⁹⁶ drafting guidelines shows an attempt, in modern times, to standardise the drafting of legislation that encompasses three dimensions of conduct criteria to the operability of a public-office: misconduct or disrepute in public office, capability and capacity. There is no Government wide strategy or schematic that coordinates or formulates public office-holder disability policy. This is in part due to the broad range of roles for example, Members of Parliament, Members of Executives, regulators, quasi-judicial appointments, Statutory Appeals Officers and Adjudicators, Local Councillors, Ministers of the Crown and Tribunal Members. Magistrates are unique in that they are volunteers and often their time, as judicial office-holders, is given without recovery of financial loss.

127. An institution or public body responsible for the recruitment of public office-holders such as The Crown, Cabinet Office, Public Appointments Commission, Directions by the relevant Secretary of State, Parliament, Judicial Appointments Commission, The Lord Chief Justice or Lord Chancellor's Advisory Committees are responsible, in part or wholly, for setting disability strategy, policy and deployment of equality.

4.11 Disability and Mandatory Judicial Training for Magistrates

128. More recently, in terms of understanding basic disability awareness of the needs of disabled people and the magistracy, and offending community, Gibbs (Gibbs, Fit for purpose, December 2014) provides a detailed analysis of the nature and extent of mandatory judicial training for magistrates and concluded it was not fit for purpose. Gibbs undertook considerable research into the development of the mandatory training for JPs in the comparative Justice of the Peace Jurisdiction of Scotland. Interestingly, the Equality and Human Rights Commission assisted the Jurisdiction of the issue of Justice of the Peace diversity and equality policy. Specifically, Gibbs observes that:

“the compulsory training magistrates receive is incomplete. It does not examine the causes of crime, the effectiveness of sentences, or include visits to see community sentences in action. Magistrates are never required to do training in equality, domestic violence, drug addiction or mental health. They are not obliged to do continuous professional development, or even to keep a personal record of what courses they have done. As budgets have tightened, the amount of free training offered to magistrates has reduced. Keen magistrates who want to extend their learning through going to seminars and conferences run by experts and external organisations, are seldom

⁹⁵ Code of Conduct for Members of Parliament; 2014; <http://www.publications.parliament.uk/pa/cm201012/cmcode/1885/188502.htm>

⁹⁶ Guide to Making Legislation; The Office of the Parliamentary Counsel; 2013;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210917/Guide_to_Making_Legislation_July_2013.pdf

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reimbursed for the conference fees or their travel expenses. Meanwhile, organisations which want to engage with magistrates find it hard to gain access and, when they do put on free training events, they say only the “usual suspects” attend.... There is no slot in the induction training for: Why people commit crime and what factors, or drivers are most important in reducing offending; magistrates’ role in the criminal justice system; The social, family and health profile of offenders; An understanding of diversity and equality issues (though there is a short section on prejudice) or basic disability awareness⁹⁷.”

4.12 Identify Comparator: Parliament’s Disability Assistance Programme

129. In 2010, The Right Honourable John Bercow MP, The Speaker of the House of Commons, led a Speaker’s Conference⁹⁸ on the issues and consequences of under-representation⁹⁹ in public life and what actions could be taken to address the historically poor record of parliament reflecting the world that Members of Parliament represent. In so far as the relevant public office-holder disability policy was concerned, under his leadership an integrated approach was taken to include disability awareness education. This comprised of an inclusion scheme with embedded equality and diversity, access to financial assistance or developmental funding, consulting the Disability Rights UK to produce an innovative MP’s guide on disability, a disability assistance policy including personal support for relevant persons, a reasonable adjustments service without budget limitations and resources for a dedicated equality and support network to promote diversity and inclusion.

Integrated model of disability

130. The Speaker of the House of Commons (“The Speaker”) and Officials wanted to tell Magistrates that this led to the deployment of the House of Commons Diversity and Inclusion Scheme¹⁰⁰ which sets out the framework around which the authorities organise their activities to embed equality, diversity and inclusion. This includes support for Members and their staff, staff of the House of Commons Service, and their customers. The policy does not, purely, seek to comply with the Equality Act 2010 but to promote the life chances of disabled persons in Parliament and continuously address the problem of under-representation. The House of Lords utilises the parliamentary disability strategy to ensure members of the Lords have a personal plan to meet their needs. Statistically, from a disability perspective, the Lords share comparative age group prevalence with the magistracy.

Outreach

131. The Speaker was keen to tell Magistrates about the Access to Elected Office fund¹⁰¹, which was established by the Government in 2012 following a recommendation by the Speaker’s Conference (on Parliamentary Representation) in January 2010 (Recommendation 35, Final Report 2009-10 HC 239-1). The fund’s aim is to help disabled people meet the additional support needs that are associated with their disability and their intention to stand for elected office. It will cover certain expenses that a disabled person who wants to stand for elected office will incur, for additional support they need when trying to get elected, and is available to disabled people at both the pre-selection and post-selection stages. The fund was initially established as a pilot running to March 2014. This pilot has now been extended to March 2015. The Access to Elected Office fund also has its own dedicated website.

Facilitation

132. The Speaker introduced the ‘MPs’ Guide on Disability’¹⁰², which intended to empower MPs to represent their disabled constituents fully. This publication is rooted in the ‘social model’ of disability: people are disabled by discriminatory attitudes and social or environmental barriers, with political emphasis and resources can be changed. The Speaker advocated that removing these barriers would free MPs to contribute as full and equal citizens and help tackle wider social problems from child poverty to crime.

133. The Speaker introduced a ‘Disability awareness and e-learning programme’¹⁰³ to develop knowledge and skills to achieve disability equalisation. Two booklets have been produced, one by RADAR (now known as Disability Rights UK) called “The MPs’ Guide on Disability”, and the other by a consortium of mental health organisations, called “MPs and Staffers’ Guide to Mental Health”.

⁹⁷ *Fit for Purpose: do magistrates get the training and development they need*; Penelope Gibbs; *Transform Justice*; Page 8; December 2014 http://transformjustice.org.uk/main/wp-content/uploads/2013/05/TJ_MAGISTRATES-TRAINING.pdf

⁹⁸ *The Speakers Conference; Under Representation in Public Life*; 2010; <http://www.publications.parliament.uk/pa/spconf/239/23911.htm>

⁹⁹ *The Speakers Conference; Under Representation in Public Life*; 2010; <http://www.publications.parliament.uk/pa/spconf/239/2391.pdf>

¹⁰⁰ *The Single Equality Scheme*; UK Parliament; 2014 (as amended); <http://www.parliament.uk/mps-lords-and-offices/offices/commons/house-of-commons-commission/single-equality-scheme/>

¹⁰¹ *Parliament’s outreach funding programme*; 2014; UK Parliament <http://www.access-to-elected-office-fund.org.uk/>

¹⁰² *MP’s Guide on Disability*; 2014; RADAR <http://www.disabilityrightsuk.org/how-we-can-help/publications/mps-guide-disability>

¹⁰³ *Parliament’s disability e-learning programme*, 2014; UK Parliament <http://assets.parliament.uk/disability-awareness/>

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Assistance

134. The Speaker and the authorities introduced a ‘Disability Assistance Scheme’¹⁰⁴ intended to ensure that disabilities do not affect ability to perform parliamentary functions nor the necessary expenditure incurred by a temporary or permanent disability. Disability assistance can be claimed for expenditure incurred while fulfilling parliamentary duties, which can reasonably be attributed to a disability. This may be a temporary or permanent disability for MPs, a staff member, a job applicant or a constituent visiting the constituency office or surgery. Disability assistance may be claimed to meet the costs of any “reasonable adjustments” required by the Equality Act 2010. These “reasonable adjustments” can refer to MPs, a staff member, a job applicant or a constituent visiting the constituency office or surgery. They include:

- Additional staff and associated costs
- Specialist IT and other equipment
- New or adapted office furniture
- Necessary adjustments to office premises or accommodation
- Necessary costs of securing larger office premises or accommodation
- Necessary additional travel costs (including for carers and/or support staff where needed)

135. The House of Commons authorities advised that there are no specific budget limitations for these claims and it will not always be necessary for MPs or staff to have the condition assessed in order to determine what reasonable adjustments are required. In many cases, the individual will already understand what is needed.

Support

136. Finally, the Speaker and the Parliamentary Authorities created ‘ParliAble’¹⁰⁵ which is the workplace equality network (WEN) in support of disabled Members, Members’ staff and Commons, Lords and PICT staff in Parliament, as well as all who work on the Parliamentary estate. ParliAble is open to both those who consider themselves to have a disability and those who have an interest in supporting disabled people.

137. The network aims to:

- Increase awareness and appreciation of disability issues on the Parliamentary estate;
- Provide a platform where disabled people can find support; and
- Utilise disabled persons to ensure disability equality objectives can be progressed.

Ambition

138. These are all examples of what ought to be regarded as a comprehensive public office-holder ‘Integrated Disability Strategy and Policy’ which seeks to utilise, recognise and support public-office holders with disabilities to occupy their office to the best of their ability on an equal footing with colleagues who do not have a disability.

139. There is no available literature specifying other public sector comparators which encapsulate the spirit of S149 of the Equality Act 2010 that matches either the organisational ambition or the acceptance of the social implication of under-representation of disabled persons in the pursuit of the elimination of discrimination whilst participating in public-office.

¹⁰⁴ Parliament’s disability assistance programme; 2014; UK Parliament <http://parliamentarystandards.org.uk/IPSAMPs/Guidance/Pages/Disability.aspx>

¹⁰⁵ Parliament’s Disability Support Network; 2014; UK Parliament <http://www.w4mp.org/support-in-your-job/2010-guide-to-working-for-an-mp-for-new-staff/groups-which-staff-can-join/sports-and-social-groups/parliabl/>

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4.13 Commercial comparator: Reasonable Adjustments Service Lloyds Banking

140. Lloyds Banking Group Plc initiated a study¹⁰⁶ of its disabled employees following a downward trajectory (2% prevalence) of losing employees with disabilities due to the failure to make reasonable adjustments and increased legal compliance issues arising from the Equality Act 2010. The organisation teamed up with Microlink Universal Inclusivity to overhaul its disability policy to ensure that workplace adjustments are an essential business practice. The Director of Group Operations, Mr. Mark Fischer, commented:

.....

“It makes business sense to help our colleagues with disabilities work effectively and contribute to the success of their team and for us to retain their talent in our organisation.”

.....

141. Lloyds Banking Group Plc concluded a ‘new workplace assessment and reasonable adjustments service’ was needed due to the complexity of existing processes, variable line management effort and engagement, length of time taken to implement reasonable adjustments and the struggle to get non-physical adjustments implemented at all. They achieved a simplification of the process, reduced reliance on line management, sped up implementation with a Service Level Agreement (SLA) to 20 days end-to-end and reduced the costs to the business at the same time increasing productivity, empowering employees, improved retention rates, created a positive cultural change and improved greater compliance with the Equality Act 2010. This provides for an interesting benchmark for the Judiciary to compare the service provided to magistrates with disabilities and introduces the following key developments¹⁰⁷:

- A starting disability prevalence rate amongst staff at 2.1%;
- An online, centralised reasonable adjustment programme for disabled employees;
- A new non-physical adjustments policy and guidance;
- The mandatory online disability awareness training and guidance for line managers;
- The personal and career development programmes for disabled staff; and
- The introduction and operation of Reasonable Adjustments Agreements to performance manage the service levels of the adjustment services.

¹⁰⁶ Case Study: Lloyds Banking Group and Microlink; A Business Case for Making Reasonable Adjustments; April 2013; <http://www.microlinkpc.com/sites/default/files/MicrolinkLloydsCaseStudy.pdf>

¹⁰⁷ Equality and Human Rights Commission; 2012; Case Study Report; <http://www.equalityhumanrights.com/private-and-public-sector-guidance/public-sector-providers/meeting-the-duty/case-studies/lloyds-banking-group>

Chapter 5:

***Magistrates with Disabilities Survey Data
and Analysis***

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5.1 Responses summary analysis

142. The survey received 252 valid replies completed anonymously and randomly. No personal data was retained. This is not a prevalence or statistical extrapolation study and no attempt is made to determine the exacting nature and extent of the representation of magistrates with disabilities as defined by the Equality Act 2010 or as self-determined by magistrates.

143. The survey simply provides a snapshot of opinion, amongst random participants, on the themes identified in relation to the Equality and Diversity Policy for the Judiciary.

144. The breakdown of sources of the Responses are as follows:

- The Magistrates' Association FORUM generated 32 completed surveys;
- The Magistrates' Association e-news (two week period) generated 161 completed surveys;
- The Magistrates' Association 'Magazine' generated 12 completed surveys;
- Ambay Software "Sentencing Guidelines Application" generated 46 completed surveys;
- 51 Survey Responses were abandoned or incomplete; not retained by SurveyMonkey;

145. The Magistrates' Association has circa 17,000 members whose records indicate 680 magistrates have some degree of disability creating a potential basic statistical Response Rate of 37.1%; which changes to 49.4% when the variant EqA(y) is applied because the number of magistrates with statutory disability would be circa 510.

146. The Judicial Office reports that 21,704 magistrates are in post whose records indicate 906 magistrates have some degree of disability creating a potential basic statistical Response Rate of 27.8%; which changes to 34.6% when the variant EqA(y) is applied because the number of magistrates with statutory disability would be circa 728.

5.2 Survey analysis: Variants (variable) (x(y))

147. Throughout the survey analysis, the Survey Monkey platform presents the % respondents (RR%(x)) to questions on the TPAD dataset. In order to look at subsets of data, or variants, sometimes referred to as arrays or correlated sub-selection (SQL), variables are created and referred to which characterise the same grouping of respondents to provide comparative analysis. Not all multi-dimensional arrays contain the same comparative record set in Survey Monkey but provide a dataset view of respondents who recorded a response to a particular question or sub-question. This can create a set of response incidences. An example of a variable and its variants would be EqA; EqA(y) which represents all those respondents who considered themselves as disabled under the Equality Act 2010, as opposed EqA(n) who did not or EqA(u) who did not know. Variable results can have a concatenated effect as expressed with the variant EqA(n)(u). Please refer to the **Chapter section 7.2 on List of Variables for definitions** that will help you understand which questions and data are referred to at any time in the report.

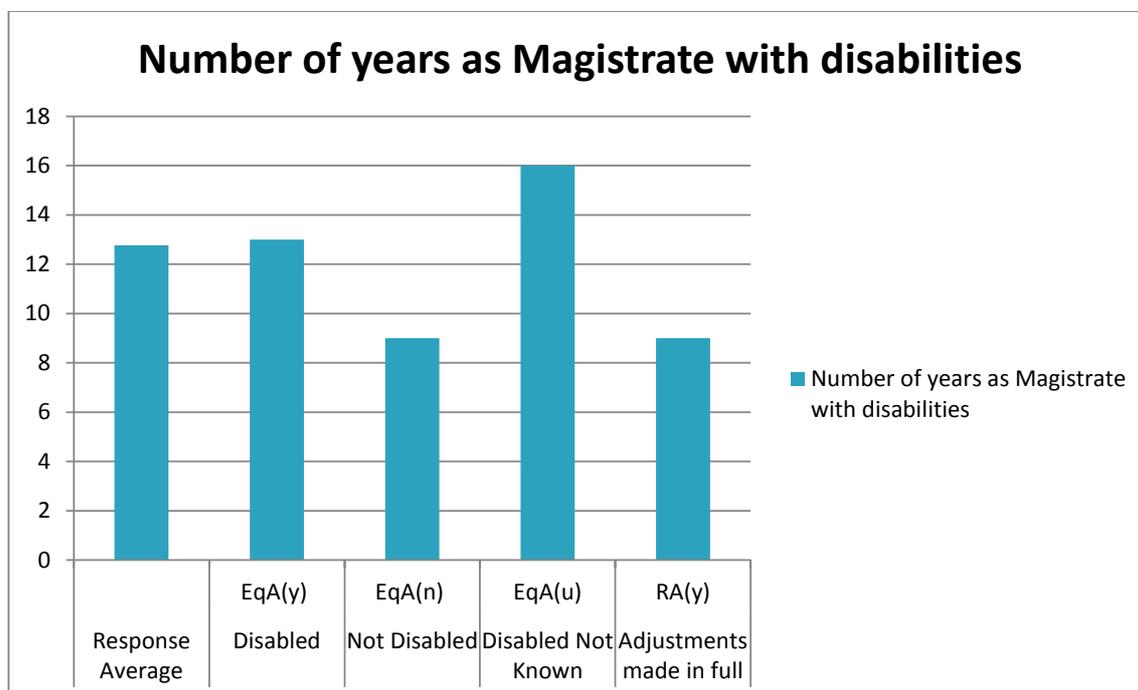
5.3 Statistical significance and sub-variants

148. Throughout the report, percentage point figures are presented to highlight differences between variations of indications made by respondents. The difference is shown when a satisfactory correlated sub-selection of data represented by a variable is established. This creates "real data", per selection, and expressed as significant within the correlation rather than significant to the dataset as a whole because this would provide no logical explanation or context. An example would be that a subset of data correlated to express the views of impairment and a reasonable adjustment would be different dependent on the impairment and or adjustment. Therefore, significance is highlighted in each correlation relevant to the sub-selected criteria (user derivate). The result would, for example, find say 109 respondents as a percentage or a finding as a percentage found in 3 respondents with different unconnected sub-selections. Where the level of respondents is low, no attempt is made to highlight the respondent numbers used other than percentage as this may compromise the anonymity of the participants and result in a breach of the Data Protection Act 1998.

Report into the Magistracy and Disability

5.4 Question 1: How many years have you been sitting as a Magistrate?

Figure 1 Number of Years as Magistrate with disabilities



Magistrate with disabilities office-holder years of service

Answer Options	Response Average	Disabled EqA(y)	Not Disabled EqA(n)	Disabled Not Known EqA(u)	Adjustments made in full RA(y)
Number of years	12.77	13	9	16	9

149. The average career as a magistrate with disabilities in a voluntary capacity was 12.8 years. This was broadly unchanged where respondents had self-identified as having a disability which was covered under the Equality Act 2010 ("EqA"). Interestingly, those respondents who believed that their disability did not amount to a statutory disability under EqA (EqA(n)) had a shorter career as a magistrate of averaging 9 years. Conversely, those respondents who did not know if their disability was covered by EqA (EqA(u)) had a longer career as a magistrate averaging 16 years. Furthermore, those magistrates with disabilities who had received full implementation of reasonable adjustments (represented by the variant RA(y)) to their office had a shorter career as a magistrate of averaging 9 years. This finding provides a valuable comparative multivariate to consider in the remainder of the questions studied. The purpose of identifying those variants enables magistrates with disabilities to consider the effect of the above results and to establish whether the Equality and Diversity Policy of the Judiciary, which is exclusively focused on complying with Equality Act 2010, causes different real life disability experiences based on the perception of magistrates who identify with having a statutory disability.

Substrates

EqA(y) generated 200 responses; EqA(n) generated 26 responses; EqA(u) generated 26 responses; RA(y) generated *20 responses.

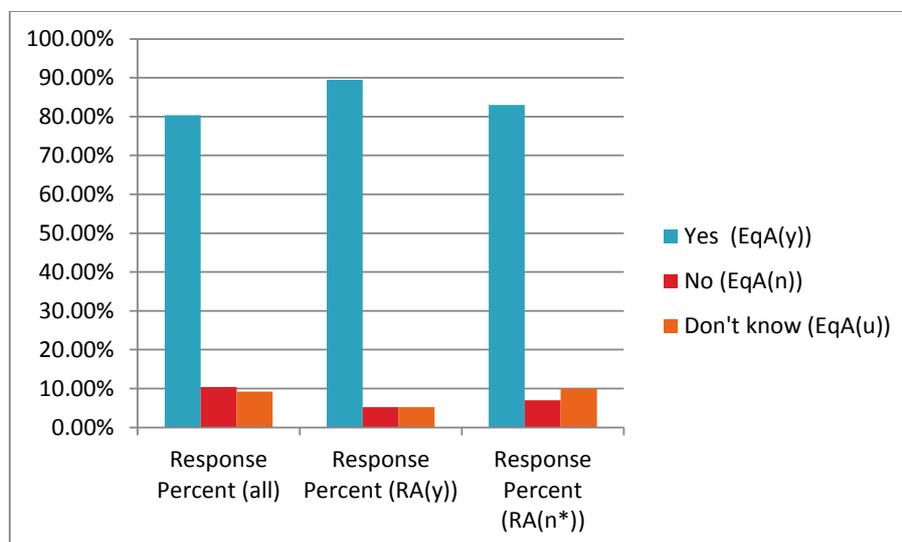
Data Protection Act 1998

*Denotes less than 20 responses recorded and not presented to prevent identification

Report into the Magistracy and Disability

5.5 Question 2: Equality Act: Disability Protected Characteristic and Prevalence

Figure 2 Magistrates with disabilities and the Equality Act 2010



Result by statutory disability protected characteristic indicator

Answer Options		Response Percent	Response Percent	Response Percent
		(all)	(RA(y))	(RA(n*))
Yes	(EqA(y))	80.4%	89.5%	83%
No	(EqA(n))	10.4%	5.25%	7%
Don't know	(EqA(u))	9.2%	5.25%	10%

150. The survey results show that in this sample 80.4% of the cohort self-identified as having a disability that is a protected characteristic under the Equality Act 2010. Furthermore, 10.4% of Respondents did not identify as having a disability under EqA and 9.2% did not know if their disability was protected under EqA.

151. The variable RA represents the status of making reasonable adjustments and there are two variants: RA(y) which represents those magistrates who have received full implementation of their reasonable adjustments and RA(n*) which represents for whatever reason those magistrates who requested or expected reasonable adjustments but have not received them. These two RA variants represent to different life-experiences.

152. Of the respondents who identified as having a disability under EqA (EqA(y)), and who had received the necessary full implementation of reasonable adjustments ((RA(y)), the increase was to 89.5%. Conversely, the number of respondents who had full implementation of reasonable adjustments (RA(y)), and who did not identify or did not know (EqA(n(u)) if their disability was covered by Equality Act, dropped to nearer 5% (50% reduction). There was no other significant variant to report by any of the cohort who had not received full implementation of reasonable adjustments.

Substrates

EqA(y) generated 200 responses; EqA(n) generated 30 responses;

EqA(u) generated 20 responses; RA(y) generated *20 responses RA(n*) generated 105 responses.

Data Protection Act 1998

*Denotes less than 20 responses recorded and not presented to prevent identification

UK Disability Prevalence

Report into the Magistracy and Disability

153. The Office of Disability Issues (ODI) produces national disability prevalence statistics¹⁰⁸ (updated 2014) which show that 11.9 million disabled persons living in the UK with impairments are likely to be deemed disabled under the repealed Disability Discrimination Act 1995 (as amended). This amounts to 1 in 5 persons in the UK being potentially regarded as having a statutory disability. The research does not provide an accurate indication of the enactment of the Equality Act 2010 and the subsequent changes to the definition of a disabled person. As it stands HM Government established research concludes that 19% of the UK population have a likely statutory disability. Moreover, the Judiciary¹⁰⁹ has adopted the ODI prevalence, the Social Model of Disability that subsequently determines the likely consequence on judicial practice and conduct with reference to the Papworth Report (2011)^{110 111} and the judicial standards expected of a Magistrate in dealing with disabled people at court whilst complying with the Equal Treatment Bench Book¹¹². It is noteworthy that the Equal Treatment Bench Book relies on data that is three years out of date. It is further noted that UK disability prevalence compares similarly internationally¹¹³.

Magistrates in post with disabilities

154. As of 31 March 2014, the Judicial Office statistics confirmed that there were 21,704 Magistrates in post and 906 (4.17%) had self-identified as having a disability. The MoJ Magistrates' diversity statistics in post 2013¹¹⁴ indicate that there were 22,390 magistrates in post with 1,011 of those magistrates declaring a disability that amounts to 4.3% of the total make up of magistracy across England and Wales. The prevalence of Magistrates with disabilities appears to be on a downward trajectory. It is noteworthy that Magistrates' Courts proceedings were recently re-organised to make Government efficiency savings which resulted in autonomous courthouses being clustered together in to local justices area hereby allowing theoretical savings on administration costs. A further consequence of the austerity policy has been Magistrate Court closures and planned future court closures.

Magistrates with disabilities retention trajectory

Magistrates in Post (Year.JO) ¹¹⁵	Total Number of Magistrates	Magistrates with disabilities	% Magistrates prevalence (JO)	% Prevalence TPAD EqA(n)(u)	% Prevalence UK (ODI) ^{116 117}
2008 [1]	29,419	1572	5.3%	4.3%	17.3%
2009 [2]	29,270	1485	5.1%	4.1%	17.6%
2010 [3]	28,607	1399	4.9%	3.9%	17.8%
2011 [4]	26,966	1262	4.7%	3.8%	17.9%
2012 [5]	25,170	1134	4.5%	3.6%	18.1%
2013 ¹¹⁹ [6]	21,704	906	4.17%	3.35%	19.1%

¹⁰⁸ Disability Prevalence 2014 updated; ODI; UK Government; <http://odi.dwp.gov.uk/docs/res/factsheets/disability-prevalence.pdf>

¹⁰⁹ The Equal Treatment bench Book; Judicial office; 2011; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

¹¹⁰ The Equal Treatment Bench Book Page 67; Judicial College 2013 http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

¹¹¹ Papworth Report (2013) Disability in the UK 2013; Facts and Figures http://www.papworthtrust.org.uk/sites/default/files/Facts%20and%20Figures%202013%20web_0.pdf

¹¹² The Equal Treatment bench Book; Judicial office; 2011; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

¹¹³ Mont et al; The World Bank, Measuring Disability Prevalence, Page 6; 2007; <http://siteresources.worldbank.org/DISABILITY/Resources/Data/MontPrevalence.pdf>

¹¹⁴ Magistrates in Post 2013; Judicial office; 2014; <http://www.judiciary.gov.uk/Resources/JCO/Documents/Stats/serving-magistrates-31032013.xls>

¹¹⁵ Magistrates statistics set; Judicial Office; <http://www.judiciary.gov.uk/publication-type/statistics/>

¹¹⁶ ODI UK Disability Prevalence https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/321594/disability-prevalence.pdf

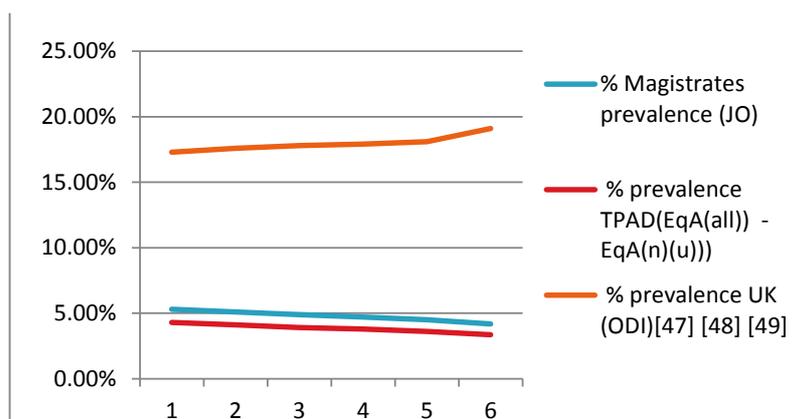
¹¹⁷ Office of Disability Issues; Disability facts and figures; 2014; <https://www.gov.uk/government/publications/disability-facts-and-figures>

¹¹⁸ Correlation check with ONS population publication <http://www.ons.gov.uk/ons/rel/pop-estimate/population-estimates-for-uk--england-and-wales--scotland-and-northern-ireland/2013/sty-population-changes.html>

¹¹⁹ Judicial Office email to the Magistrates Association with prevalence as of 31 March 2014 (Year 2013)

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Figure 3 Magistrates with disabilities trajectory chart



MoJ Disability Prevalence of Magistrates in Post (2012) by region

HMCTS Region	Advisory Committee	Total	Age				Disability		% TPAD EqA(n)(u)
			Under 40	40-49	50-59	>60	Yes	%	
London									
	Central and South London	897	72	141	288	396	31	3.5	2.8
	North and East London	963	82	193	277	411	40	4.2	3.3
	London West	1040	50	185	326	479	34	3.3	2.6
	London Total	2,900	204	519	891	1,286	105	3.6	2.9
Midlands									
	Birmingham and Heart of England	798	27	106	253	412	36	4.5	3.6
	Black Country	558	16	81	183	278	31	5.6	4.5
	Derbyshire	411	18	49	108	236	22	5.4	4.3
	Leicestershire and Rutland	393	16	58	111	208	20	5.1	4.1
	Lincolnshire	305	*	35	79	189	8	2.6	2.1
	Northamptonshire	341	11	46	114	170	9	2.6	2.1
	Nottinghamshire	583	16	64	161	342	31	5.3	4.3
	Staffordshire	438	13	60	137	228	24	5.5	4.4
	Warwickshire	204	6	21	54	123	10	4.9	3.9
	West Mercia	684	15	84	189	396	29	4.2	3.4
	Midlands Total	4,715	138	604	1,389	2,582	220	4.7	3.8
North East									
	Cleveland	346	12	41	100	193	17	4.9	4.0
	Durham	272	*	37	87	146	23	8.5	6.8
	Humber	410	12	49	120	229	22	5.4	4.3
	Northumbria	901	35	121	264	481	41	4.6	3.7
	North Yorkshire	344	11	44	116	173	15	4.4	3.5
	South Yorkshire	628	27	78	177	346	29	4.6	3.7
	West Yorkshire	1177	61	174	349	593	48	4.1	3.3
	North East Total	4,078	158	544	1,213	2,161	195	4.8	3.8
North West									
	Cheshire	452	11	70	130	241	23	5.1	4.1
	Cumbria	230	6	17	56	151	6	2.6	2.1
	Greater Manchester	1612	54	184	458	916	87	5.4	4.3
	Lancashire	1080	54	121	311	594	67	6.2	5.0
	Merseyside	769	10	94	222	443	45	5.9	4.7
	North West Total	4,143	135	486	1,177	2,345	228	5.5	4.4
South East									
	Bedfordshire	248	11	44	75	118	11	4.4	3.6
	Berkshire	333	10	69	99	155	12	3.6	2.9
	Buckinghamshire & Oxfordshire	541	14	75	153	299	16	3.0	2.4
	Cambridgeshire	267	*	28	80	157	10	3.7	3.0
	Essex	518	11	59	141	307	24	4.6	3.7
	Hertfordshire	446	10	103	133	200	14	3.1	2.5
	Kent	828	25	91	248	464	26	3.1	2.5
	Norfolk	353	7	30	88	228	22	6.2	5.0
	Suffolk	225	*	24	64	136	11	4.9	3.9
	Surrey	340	10	43	104	183	11	3.2	2.6
	Sussex	664	17	75	189	383	17	2.6	2.1
	South East Total	4,763	115	641	1,374	2,630	174	3.7	2.9
South West									
	Avon & Somerset	837	25	106	248	458	42	5.0	4.0
	Devon & Cornwall	603	14	67	154	368	32	5.3	4.3
	Dorset	286	*	27	74	180	17	5.9	4.8
	Gloucestershire	220	6	34	71	109	*	NA	NA

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	Hampshire & Isle of Wight	723	18	86	218	401	33	4.6	3.7
	Wiltshire	242	6	38	81	117	10	4.1	3.3
South West Total		2,911	69	358	846	1,633	134	4.6	3.7
Wales									
	Dyfed Powys	273	*	16	89	164	13	4.8	3.8
	Gwent	291	7	29	71	184	14	4.8	3.9
	Mid & South Glamorgan	489	18	71	152	248	29	5.9	4.8
	North Wales	397	8	45	118	226	11	2.8	2.2
	West Glamorgan	210	*	33	70	102	7	3.3	2.7
Wales Total		1,660	33	194	500	924	74	4.5	3.6
England and Wales		25,170	873	3,346	7,390	13,561	1,134	4.5	3.6
Percentage of Total		100.0%	3.5%	13.3%	29.3%	53.9%	4.5%	95.5%	

155. The Judicial Office Magistrates statistics¹²⁰ publication series does not provide guidance on how disability is defined or classified. The Judicial office implements a policy under the Data Protection Act 1998 that prevents the identity of a magistrate being determined by virtue of reporting diversity statistics. It is noteworthy, that there is no Judicial Office information on the disability screening methods, data collection, data processing or information retention and maintenance policy published with the statistics.

Predicting Statutory Disability under the Equality Act 2010

156. Assuming the MOJ statistics are premised on magistrates declaring a long-term disability or health problem, such declarations may not amount to statutory protection under the Equality Act 2010 as a qualifying disability^{121 122}. The relevance of this is inconsequential to this limited study save to determine those who may identify as being disabled but are not protected by the Equality Act 2010 because the disability does not meet the statutory definition. To this effect, a substrate variant [TPAD] EqA(y) of data needs to compare both the effect of statutory protection and those who don't know [EqA(u)] or don't believe [EqA(n)] their health issue amounts to a statutory disability. The distinction may affect a Magistrate's ability to obtain any reasonable adjustments needed to sit in court as the legal duty is owed only to those who qualify under the Act.

157. Specifically, the Judicial Office statistics for 2013 show that only 4.17% of magistrates declared impairment that could amount to a disability. If we apply the TPAD EqA(n)(u) variable we can estimate that between 3.35% and 4.17% of the 2013 statistics could be regarded as disabled persons under the definition of now repealed Disability Discrimination Act (no ODI comparators are published for the Equality Act 2010 equivalent protection). The ODI and Judiciary¹²³ speculate that UK national disability prevalence rate, as of 2013, is 18-19%. The Judiciary's reliance on the correlation of the national prevalence with judicial practice in England and Wales is marginally underestimated because statistically the judiciary does not remove Scotland and Northern Ireland from this jurisdiction (from the disabled adult population cohort) and it is not possible to predict the effect of the compulsory retirement of magistrates at the age of 70 because the ODI does not provide that degree of comparative granularity. Consequentially, adjusted accordingly the national disability prevalence for England and Wales for 2011-2012 (last available publication) is circa 20.1% or 1 in 5 persons.

Under representation of Magistrates with disabilities

158. To summarise, the disability representation of magistrates against the comparative national ODI disability prevalence model is likely to be between 3.3% (if the statutory definition is applied) and 4.2% (depending on individual perception or corporate screening policy). Furthermore, we can deduce from the MOJ 2012-2013 statistics that circa 53.3% of magistrates in post are over the age of 60 that is likely to present a disproportionate and consequential determinant in any magistrates with a disability prevalence statistic. The analysis of the ODI impairment rates across the UK population found that roughly 50.1% of the adult disabled population were over the age of 65. Finally, it can be determined from the Judicial Office data and the ODI data, that Magistrates' are under represented of those in the community with a disability by 74.7%. The survey dataset variants TPAD EqA(y), EqA(n) and EqA(n)(u) offers a limited but respected sample of 27.8% of the Judicial Office data for magistrates with disabilities. When consideration is given to Magistrates with a statutory disability then the extent of under representation increases closer to 81%.

¹²⁰ Magistrates in Post; Judicial Office Publications; 2014 <http://www.judiciary.gov.uk/publication-type/statistics/>

¹²¹ Definition of disability under the Equality Act 2010 <https://www.gov.uk/definition-of-disability-under-equality-act-2010>

¹²² Section 6 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/6>

¹²³ The Equal Treatment Bench Book Page 67; Judicial College 2013 http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

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Leaders

HMCTS Region	Advisory Committee	Total	Age				Disability		% TPAD EqA(n)(u)
			Under				Yes	%	
			40	40-49	50-59	>60			
	Durham	272	*	37	87	146	23	8.5	6.8
	Lancashire	1080	54	121	311	594	67	6.2	5.0
	Norfolk	353	7	30	88	228	22	6.2	5.0
	Dorset	286	*	27	74	180	17	5.9	4.8
	Merseyside	769	10	94	222	443	45	5.9	4.7
	Mid & South Glamorgan	489	18	71	152	248	29	5.9	4.8

Laggers

HMCTS Region	Advisory Committee	Total	Age				Disability		% TPAD EqA(n)(u)
			Under				Yes	%	
			40	40-49	50-59	>60			
	Sussex	664	17	75	189	383	17	2.6	2.1
	Cumbria	230	6	17	56	151	6	2.6	2.1
	Lincolnshire	305	*	35	79	189	8	2.6	2.1
	Northamptonshire	341	11	46	114	170	9	2.6	2.1
	North Wales	397	8	45	118	226	11	2.8	2.2
	Buckinghamshire & Oxfordshire	541	14	75	153	299	16	3.0	2.4
	Hertfordshire	446	10	103	133	200	14	3.1	2.5
	Kent	828	25	91	248	464	26	3.1	2.5
	London West	1040	50	185	326	479	34	3.3	2.6
	West Glamorgan	210	*	33	70	102	7	3.3	2.7
	Central and South London	897	72	141	288	396	31	3.5	2.8

The Unknown: Prison-Offending community with disabilities

159. Interestingly, a broader understanding of the issues of disability and representation has recently been connected to offending. The formative prisoner disability study by Cunliffe¹²⁴ et al provides a useful insight for the criminal justice system and judiciary, as public authorities, for the purposes of rehabilitation. The study indicates that the prison-offending community has a statutory base-line disability prevalence rate of about 34% dramatically increasing with different identified variables and scenarios. There is no suggestion that there is an either way or causal relationship between the community with disabilities and crime but the relationship between recognised under-representation of magistrates with disabilities and the offending community with disabilities may present a valuable opportunity for further investigation.

160. Previously, in 2009, 'The Bradley Report'¹²⁵ highlighted recommendations in response to the growing crisis in the prison population with mental health problems or learning difficulties. In 2009, The Magistrates' Association broadly supported the recommendations of the Bradley Report¹²⁶ and called for better funding and training of magistrates to improve sentencing options for offenders with mental health related impairments. In the same year, HM Inspectorate of Prisons published a report into the care and support of prisoners with a disability¹²⁷ highlighting the need for better prevalence testing and facilities to accommodate the prison population with disabilities.

¹²⁴ *Estimating disability prevalence amongst prisoners*, Ministry of Justice, 2013;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278827/estimating-prevalence-disability-amongst-prisoners.pdf

¹²⁵ *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system*. April 2009
http://www.centreformentalhealth.org.uk/pdfs/Bradley_report_2009.pdf

¹²⁶ *Magistrates' Association Response to the Bradley Report*; 2009; http://www.magistrates-association.org.uk/dox/consultations/1255517560_41_bradley_report.pdf

¹²⁷ *Disabled prisoners: A short thematic review on the care and support of prisoners with a disability*; HM Inspectorate of Prisons; 2009;

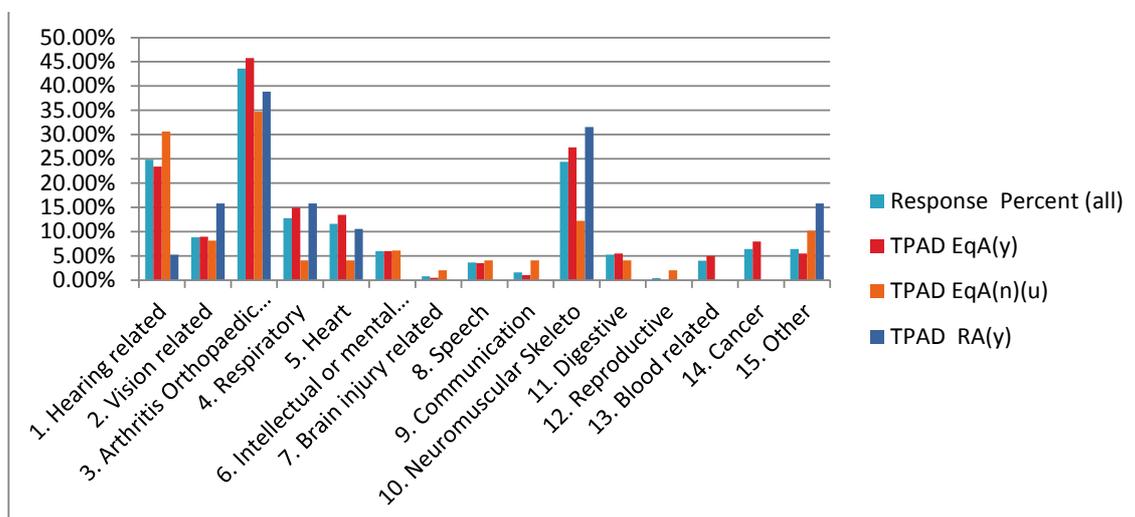
http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/thematic-reports-and-research-publications/prisoners_with_disabilities1-rps1.pdf

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5.6 Question 3: Impairment

Results by Impairment

Figure 4 Magistrates with disabilities by Impairment Group



Impairment Groups Data Sheet (by Results)

Answer Options (Series Impairment(n ¹²⁸))	Response Percent (all)	TPAD EqA(y)	TPAD EqA(n)(u)	TPAD RA(y)
(1) Hearing related	24.8%	23.38%	30.61%	5.26%
(2) Vision related	8.8%	8.96%	8.16%	15.79%
(3) Arthritis Orthopaedic related	43.6%	45.77%	34.69%	38.84%
(4) Respiratory	12.8%	14.93%	4.08%	15.79%
(5) Heart	11.6%	13.43%	4.08%	10.53%
(6) Intellectual or mental related	6.0%	5.97%	6.12%	0.00%
(7) Brain injury related ¹²⁹	0.8%	0.5%	2.04%	0.00%
(8) Speech	3.6%	3.48%	4.08%	0.00%
(9) Communication	1.6%	1.0%	4.08%	0.00%
(10) Neuromuscular Skeletal	24.4%	27.36%	12.24%	31.58%
(11) Digestive	5.2%	5.47%	4.08%	0.00%
(12) Reproductive	0.4%	0.0%	2.04%	0.00%
(13) Blood related	4.0%	4.98%	0.00%	0.00%
(14) Cancer	6.4%	7.96%	0.00%	0.00%
(15) Other	6.4%	5.47%	10.20%	15.79%

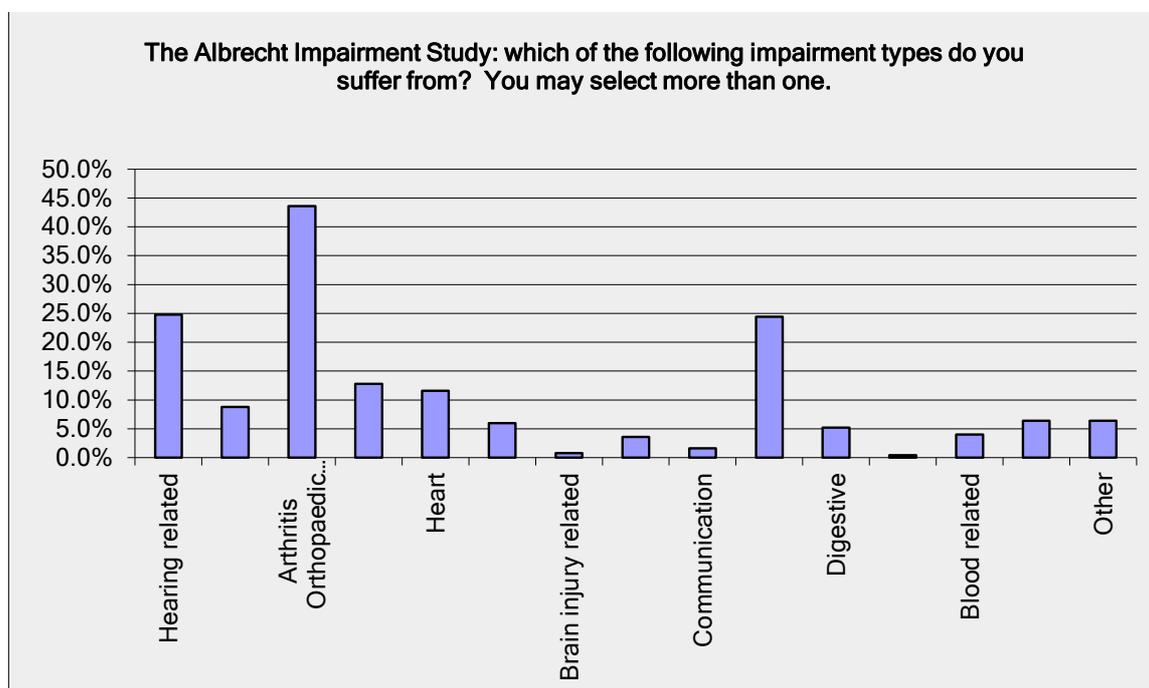
¹²⁸ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the Impairment table under Question Q3 throughout the survey

¹²⁹ American impairment literature separates brain related impairment from other intellectual or mental impairment for private health insurance considerations.

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Impairment Bar Chart

Figure 5 Magistrate with disabilities impairment types recorded (all responses)



Substrates

(Series Impairment (n))	Responses Recorded RR(all)	RR (TPAD EqA(y))	RR (TPAD EqA(n)(u))	RR (TPAD RA(y))
(1) Hearing related	60	50	30	*
(2) Vision related	*20	*20	*	*
(3) Arthritis Orthopaedic related	110	90	30	*
(4) Respiratory	30	30	*	*
(5) Heart	30	30	*	*
(6) Intellectual or mental related	*	*	*	*
(7) Brain injury related	*	*	*	*
(8) Speech	*	*	*	*
(9) Communication	*	*	*	*
(10) Neuromuscular Skeletal	60	50	*	*
(11) Digestive	*	*	*	*
(12) Reproductive	*	*	*	*
(13) Blood related	*	*	*	*
(14) Cancer	20	20	*	*
(15) Other	*	*	*	*

Data Protection Act 1998

*Denotes less than 20 responses recorded and not presented to prevent identification. The RR denoted records round down or up.

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Other

161. Respondents listed the following impairments under the category 'other':
1. ME/CFS
 2. Mobility impaired (non-wheelchair)
 3. None
 4. Rare form of arthritis [condition removed to protect identity]
 5. Slight deafness left ear
 6. Dyslexia, problems with words and numbers and depression
 7. Rheumatoid arthritis, knee replacements x2, 2 hips, plus shoulder, a stroke and breast cancer
 8. Tiredness
 9. Poor upper mobility issues
 10. Urology – non-functional bladder
 11. Dyslexic
 12. Essential tremor
 13. MS
 14. Post-operative pain following thoracic surgery 13 years ago
 15. Diabetic
 16. Mobility Disability
 17. ME/CFS
 18. Paraplegic
 19. Spondylosis of the neck/osteoarthritis/can only walk with the aid of a walking stick
 20. Fatigue related
 21. Below knee amputee
 22. Rheumatoid Arthritis
 23. Diabetes
 24. Impaired immune system and complications arising
 25. Paralysed/spinal injury
 26. Histoplasmosis - mobility restricted
 27. Stroke
 28. Diabetes
 29. Multiple sclerosis
 30. Prolapsed discs, curvature of spine
 31. Peripheral vascular disease
 32. I was born with Talipis (Club Foot) of my left leg
 33. Spinal damage
 34. Multiple sclerosis
 35. Spinal Injury
 36. Amputee (leg)
 37. Fatigue from ME

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38. Damage to balance centres
39. I have multiple sclerosis and arthritis. (2 knee replacements)
40. Mobility
41. Familial spastic paresis
42. Ankylosing Spondylitis
43. Diabetic
44. Spinal injury
45. Diabetes
46. Diabetes with peripheral neuropathy
47. Dyslexia
48. Circulatory
49. Spinal injury, paraplegic
50. Diabetic
51. POLIO
52. Dyslexia
53. Neuromuscular-skeletal but not "disabling" levels most of the time

Albrecht: Counting Disability -1992 NHIS

Conditions	Response	
	Percent (all)	Albrecht Prevalence scale
Arthritis and other muscular skeletal	43.6	1
Circulatory system	16.8	2
Orthopaedic	24.4	3
Respiratory	12.8	4
Nervous system/sensory	34.4	5
Cognitive or intellectual	11.2	6

Summary of Analysis

162. Analysis of the cohort impairment (bodily functions) groups indicates that the highest impairment prevalence amongst Magistrates with disabilities includes: arthritis and orthopaedic related (43.6%), hearing related (24.8%), neuro-muscular skeletal related (24.4%), respiratory related (12.8%) and heart related (11.6%). When the EqA(y) variable was applied, save as to hearing related which remained broadly the same, the prevalence increased to between 2 and 3%. When the EqA(n)(u) variable was applied, the impairment prevalence scenario changes to include arthritis and orthopaedic related (34.7%), hearing related (30.6%), neuro-muscular skeletal (12.24%) and other (10.2%) disabilities. To consider the prevalence mostly likely engaged when adjustments have been made in full, the RA(y) variable was applied and the prevalence scenario changes to include arthritis and orthopaedic related (38.84%), neuro-muscular related (31.58%), vision (15.79%) and other (15.79%).

163. Slightly more than 30% of the cohort respondents identified with one or more impairments.

164. Altman, Mercer, Rutkowski-Kmitta and others (Altman, 2001 - 2003) and (Barnes & Mercer, Disability Culture: Assimilation or Inclusion, 2001 - 2003) (Lollar, 2001 - 2003) (Rutkowski-Kmitta, 2001 - 2003) examine the different models of classifying and accounting for impairment rates, prevalence and disability factors. Albrecht (Albrecht, 2001 - 2003) is a formative and respected consolidation of disability studies. Albrecht found that National Health Information System analysis (NHIS) had grouped the leading impairment classifications per sample of the population as a scale of prevalence including: arthritis and muscular skeletal related, circulatory system, respiratory system, nervous and sensory, and cognitive and intellectual.

165. Interestingly, the small TPAD sample and its comparable variants EqA(y) and EqA(n)(u) are consistent within the survey but differed considerably from NHIS sample. The TPAD survey results had equivalency with a lead impairment of arthritis and other muscular skeletal related impairment, but then followed by nervous system/sensory impairment, orthopaedic related impairment, circulatory impairment and cognitive impairment.

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166. This is in part due to the limitation of the number of magistrates with disabilities in post, the higher than expected EqA(n)(u) associations¹³⁰ and the limited size of the TPAD dataset sample of impairment. Nevertheless, it illustrates a point that recruitment of disabled persons into the Magistracy would benefit from looking at the broad range of impairments and indeed the naturally occurring prevalence of those impairments in society as representative of the disability community as a whole.

167. In the premises: the nature, prevalence and specifics of impairment recruited into the magistracy have an influence on the cost and service provision of reasonable adjustments policy for magistrates and the resulting disability retention policy. The operational impact and specifics of impairment recruitment are examined question 4, 5 and 6.

¹³⁰ *Disability in the United Kingdom 2013; Facts and Figures; 2013; Papworth Trust;*
<http://www.papworthtrust.org.uk/sites/default/files/Facts%20and%20Figures%202013%20web.pdf>

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5.7 Question 4: Status of reasonable adjustments

Equality and Diversity Policy for the Judiciary: illustrations from the policy

168. The Equality and Diversity Policy of the Judiciary¹³¹ stipulates that special provisions now govern the different forms of disability discrimination. The Equality Act 2010 recognises that more than formal equality is required to enable disabled people [persons] to participate as fully as possible in society. In addition to protection from direct and indirect discrimination, reasonable adjustments may be required to assist a disabled person, who because of his or her disability, is placed at a substantial disadvantage in comparison to others without that disability (s.20). These may be, for example, by adaption or modifications to premises, physical features or different arrangements, such as sitting times.

169. Furthermore, the same Policy stipulates that unlawful discrimination may also occur if a disabled person is treated unfavourably because of something arising in consequence of his or her disability, which cannot be shown to be a proportionate means of achieving a legitimate aim (s.15).

170. An illustrated example could include:

- A judge is diagnosed as having a visual impairment and requires adapted IT equipment but is told that funding is not available for a “non-standard” kit. The Lord Chancellor or the Lord Chief Justice may need order that the Ministry of Justice be required to make the necessary adaptations to the equipment for the Judge.

171. Comparatively, pregnancy and maternity-related discrimination may occur if a woman is unfavourably treated because of a current or previous pregnancy, or because she has given birth or raising a child. If the woman incurs child costs to cover care for the child when she is required to sit in court, it may be necessary that the child care costs are recovered as financial loss to enable to continue sitting otherwise the woman is unfavourably treated because she has given birth or raising a baby.

- A judge is told she will not be authorised to sit in a particular jurisdiction because she is pregnant and will be unable to sit while on maternity leave, or denied sitting in a particular jurisdiction due to the need to claim childcare costs.
- Therefore, comparatively with other forms of discrimination, a judge who is told that she will not be authorised to sit in a particular jurisdiction indefinitely because she has a hearing impairment and she should not sit until or whilst portable hearing loop equipment is being sourced. Disability discrimination may occur if the disabled person is treated unfavourably because of something arising as a consequence of her disability that cannot be shown to be a proportionate means of achieving a legitimate aim (s.15).

172. Further guidance¹³² is referred to in the Judicial College Equal Treatment Bench Book. The duty relies on the judge or justice to apply the law as it relates to alleged discriminatory conduct. The Equality Policy referred to also adopts the Equality Act Codes of Practice¹³³.

¹³¹ Page 8 and 9; Page 34; *The Equality and Diversity Policy of the Judiciary*; Judicial Office; 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/equality_diversity.pdf

¹³² Page 13; *The Code on Judicial Conduct*; Judicial Office; 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/judicial_conduct_2013.pdf

¹³³ *Equality Act 2010 Employment Statutory Code of Practice*; 2011; Chapter 5; <http://www.equalityhumanrights.com/sites/default/files/documents/EqualityAct/employercod.pdf>

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Equality Act 2010: Code of Practice Examples of Reasonable Adjustments

173. The Equality Commission outlines a number of types of adjustments^{134 135} which could be made:

- Making adjustments to premises;
- Providing information in accessible formats;
- Allocating some of the worker's duties to another person;
- Transferring the worker to fill an existing vacancy;
- Altering the worker's hours of working or training;
- Assigning the worker to a different place of work or training or allowing home working;
- Allowing the worker to be absent during working or training hours for rehabilitation, assessment or treatment;
- Allowing the worker to take a period of disability leave;
- Giving, or arranging for, training or mentoring (whether for the disabled worker or any other person);
- Acquiring or modifying equipment;
- Modifying procedures for testing or assessment;
- Providing a reader or interpreter;
- Providing supervision or other support;
- Employing a support worker to assist a disabled worker;
- Modifying disciplinary or grievance procedures;
- Modifying performance-related pay arrangements;
- Adjusting redundancy selection criteria;
- Participating in supported employment schemes such as Workstep.

174. The Code points out that it may sometimes be necessary for an employer to take a combination of steps. Paragraph 6.33 of the Employment Code lists the following possible adjustments, giving an example for each. Previously most of these adjustments were written into the Disability Discrimination Act. It should not make any difference that they are now in the Code rather than in the statute.

Equality and Diversity Policy for the Judiciary: duty to make reasonable adjustments

175. According to the Equal Treatment Bench Book, under the Equality Act 2010, a Magistrate, or more generally the Judiciary, have a duty to make reasonable adjustments (or changes) to avoid putting people [persons] with disabilities at a substantial disadvantage compared to those who are not disabled.

176. The duty to make reasonable adjustments deals with three different requirements:

- Provisions, criteria or practices – including policies;
- Physical features, such as layouts of courts and access to buildings; and
- Providing auxiliary aids – including providing information in an accessible format such as electronic, braille, large print or email.

177. According to Lady Justice Hallett, the duty is anticipatory, which means you cannot wait until a disabled person wants to use your services, but must think in advance (and an ongoing basis) about what disabled people with a range of impairments might reasonably need; such as deafness, blind or partially sighted.

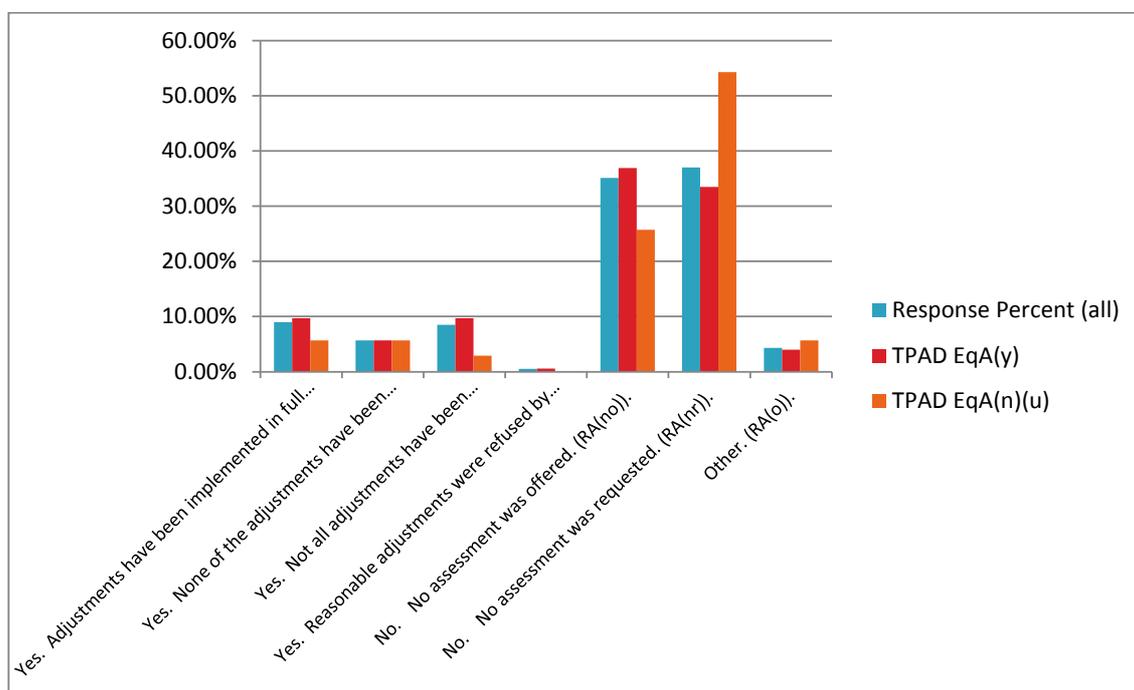
¹³⁴ Examples of reasonable adjustments; The Equality Commission; 2014; <http://www.equalityhumanrights.com/your-rights/equal-rights/disability/disability-in-employment/examples-of-reasonable-adjustments-in-the-workplace>

¹³⁵ Proving disability and reasonable adjustments – a worker's guide to evidence under the Equality Act 2010; Tamara Lewis; The Equality Commission; 2012 www.equalityhumanrights.com/2Fuploaded_files%2FQuestionnaire_guides%2Fproving_disability_and_reasonable_adjustments_workers_guide_final.doc

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Results by Status of Operationalised Reasonable Adjustments

Figure 6 Status of Reasonable Adjustments (current policy)



Data Sheet by Status of Operationalised Reasonable Adjustments

Answer Options		Response Percent (all)	TPAD EqA(y)	TPAD EqA(n)(u)
Yes. Adjustments have been implemented in full.	(RA(y))	9.0%	9.7%	5.7%
Yes. None of the adjustments have been implemented.	(RA(n))	5.7%	5.7%	5.7%
Yes. Not all adjustments have been implemented.	(RA(na))	8.5%	9.7%	2.9%
Yes. Reasonable adjustments were refused by HMCTS.	(RA(r))	0.5%	0.6%	0%
No. No assessment was offered.	(RA(no))	35.1%	36.9%	25.7%
No. No assessment was requested.	(RA(nr))	37.0%	33.5%	54.3%
Other.	(RA(o))	4.3%	4.0%	5.7%

Substrates

Answer Options		Responses Recorded RR(all)	RR (TPAD EqA(y))	RR (TPAD EqA(n)(u))
Yes. Adjustments have been implemented in full	(RA(y))	20	*	*
Yes. None of the adjustments have been implemented.	(RA(n))	*	*	*
Yes. Not all adjustments have been implemented.	(RA(na))	20	*	*
Yes. Reasonable adjustments were refused by HMCTS.	(RA(r))	0	*	0
No. No assessment was offered.	(RA(no))	40	70	*
No. No assessment was requested.	(RA(nr))	40	60	55
Other.	(RA(o))	*	*	*

RA(y) generated responses; RA(n) generated responses; RA(na) generated responses;

RA(r) generated responses; RA(no) generated responses; RA(nr) generated responses;

RA(o) generated responses.

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*Denotes less than 20 responses recorded and not presented to prevent identification
The RR denoted records round down or up.

Other

178. Respondents made the following comments under the option 'other':

1. "No formal assessment but (some) requested adjustments made."
2. "Not needed."
3. "Only after I pushed it and then little change except very minor."
4. "None offered or requested."
5. "Do have a Personal Escape Plan for emergencies."
6. "Before retirement I was a trained assessor in the work place so did my own assessment and informed management of my specific needs which they complied with."
7. "There was excessive delay in assessing disability."
8. "I asked for a loop system in the court house but was offered a post with a sort of mike that had to stand in front of me on the bench. This was not only demeaning but was useless. The court house needs to have a loop in all court rooms as there are plenty of disabled court user's not just magistrates."
9. "I was contacted by the Chief Clerk asking if my needs were catered for."
10. "I have recently transferred bench and hasn't been discussed."
11. "Nothing has actually happened though I recall being asked."
12. "I didn't realise I could have an assessment!"
13. "Alterations requested but refused on grounds of listed building."
14. "When I transferred from another court it was only the threat of resigning that my needs were addressed and handrails put in, even though prior to transfer in a visit to the new court I identified my needs."

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15. "I made my own assessment as I am qualified to do so and conveyed my findings to other magistrates I sit with and the clerks all of whom helped me to fulfil my sittings."
16. "My courthouses are not compliant."
17. "New building."
18. "Adjustments offered after threat of legal action and adjustments have been questioned, i.e. I have been asked to attend a meeting which I have refused to attend."
19. "Not sure."
20. "I am waiting for the assessment to happen."

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Summary of analysis

179. Judicial office-holder reasonable adjustments policy (assuming it applies to Magistrates) does not stipulate a service response time¹³⁶ to assess, implement or review individual reasonable adjustments for a Magistrate with disabilities. There is anecdotal evidence in the survey illustrating examples of good and bad service. Making reasonable adjustments, however, is inextricably linked to productivity. The failure to provide a magistrate with reasonable adjustments will have an effect on court time, performance and quality parameters of a particular bench, and will have an effect on individual morale or self-confidence.

180. Encouragingly, the survey results revealed that there was no evidence at all of a policy of outright refusal to make reasonable adjustments. The primary concern of magistrates with disabilities was centred on the relative low level of implementation of reasonable adjustments in full (RA(y)). There was no appreciable difference when comparing all magistrates with EqA(y) variable but when EqA(n)(u) was applied those who considered that reasonable adjustments had been made in full dropped by 63.3% indicating those who felt less inclined to be confident that their disability was covered under the Equality Act 2010 had received less reasonable adjustments. This could be a marker that indicates that the nature and extent of the impairment was not sufficient enough to warrant an assessment. All EqA variables reported evenly, 5.7%, that no reasonable adjustments had been implemented at all.

181. Further, those respondents who stated that implementation of reasonable adjustments were not complete (RA(a)), 9.7%, demonstrated that those who were confident that their disability was covered under EqA (EqA(y)) was 8.76% higher than the group as a whole. Conversely, those in EqA(n)(u) had reported a 34.1% reduction in not all reasonable adjustments having been implemented. This could be a marker that indicates that the nature and extent of the impairment was not sufficient enough to warrant an assessment.

182. Interestingly, in the cohort as a whole, (RA(o)) 35.1% of the survey respondents indicated that no assessment for reasonable adjustments had been offered. This remained broadly the same within the cohort when the EqA(y) variant was applied. Conversely, when the EqA(n)(u) variable was applied 25.7% of the survey respondents amounting to a reduction of 26.8% say no assessment was offered. This could be a marker that indicates that the nature and extent of the impairment was not sufficient enough to warrant an assessment.

183. Significantly, in this cohort study, (RA(r)) 37.0% of all respondents did not request an assessment of their reasonable adjustments. Applying the EqA(y) variable yielded a similar result in a marginal reduction to 33.5% of respondents did not seek an assessment of reasonable adjustments. Conversely, applying the EqA(n)(u) variable resulted in that variant group being 17.4% less likely to request an assessment of reasonable adjustments to the cohort as a whole. This could be a marker that indicates that the nature and extent of the impairment was not sufficient enough to warrant an assessment.

184. It is noteworthy, when applying the concatenated variants RA(y) and subsequent Question 7 variant D(ra), this presented an interesting scenario in that all of those respondents who had considered that they had been the subject of a disability discrimination policy failure to make reasonable adjustments also had not received full operational implementation of reasonable adjustments. This has an implication for the potential for disability discrimination litigation.

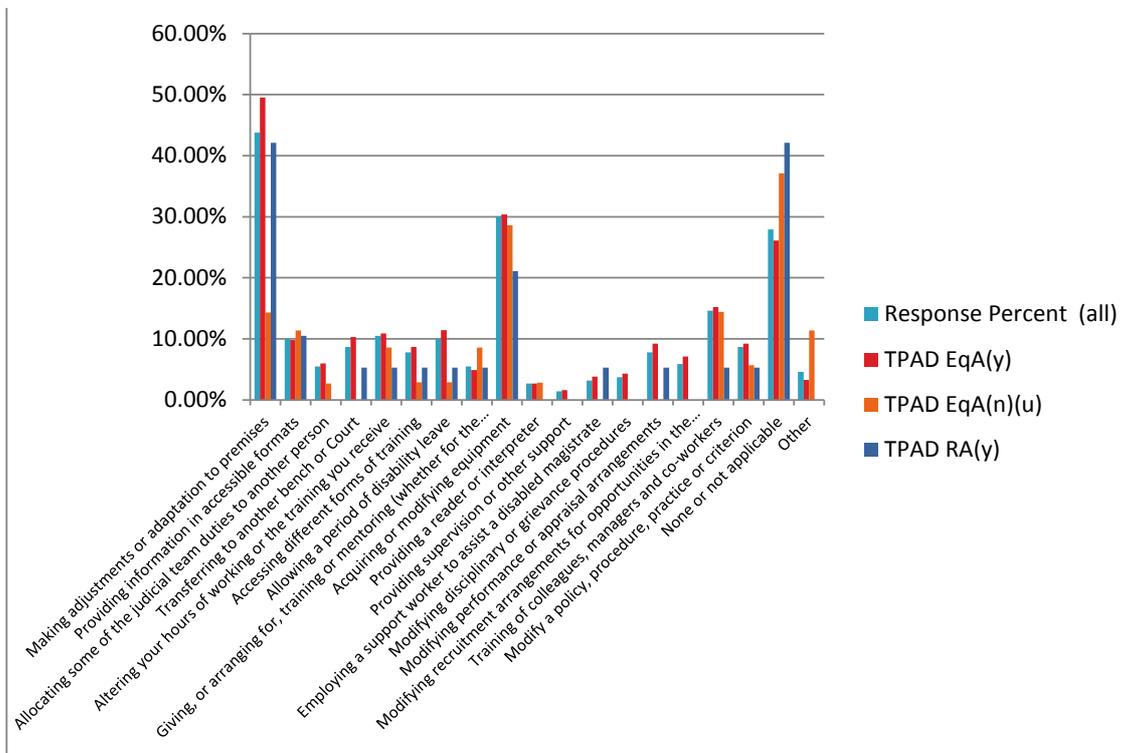
¹³⁶ There is no evidence of a 'managed service' or performance-managed service also referred to as Service Level Agreement (SLA) in the identified Case Study Report: Case Study: Lloyds Banking Group and Microlink; A Business Case for Making Reasonable Adjustments; April 2013; <http://www.microlinkpc.com/sites/default/files/MicrolinkLloydsCaseStudy.pdf>

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5.8 Question 5: Reasonable Adjustments (EP) user driven requirements

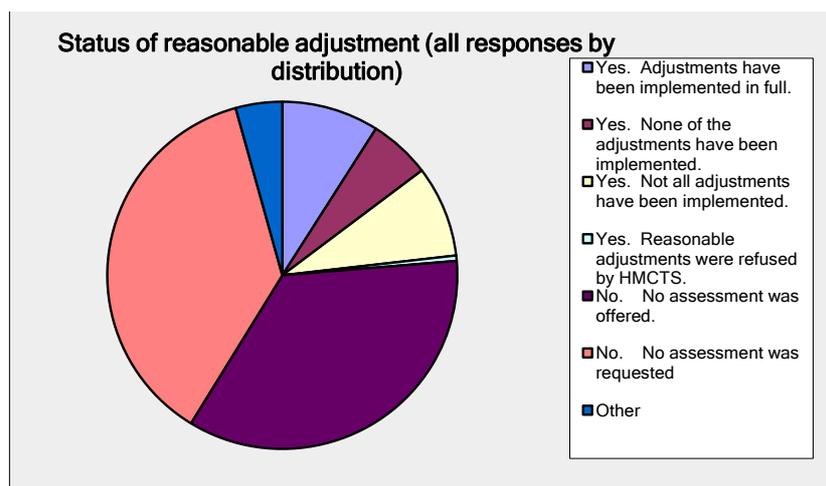
Results by Reasonable Adjustments: Effective Productivity (EP)

Figure 7 Reasonable Adjustments - User Demand Led



Pie Chart by status of reasonable adjustments for Effective Productivity

Figure 8 Effective Productivity Distributions



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Results by Reasonable Adjustments: Potential Effective Productivity

Answer Options EP(n) – (n) is the Reasonable Adjustment Category ¹³⁷ referred to in the Equality Act 2010 Codes of Practice	Response Percent (all)	TPAD EqA(y)	TPAD EqA(n)(u)	TPAD RA(y)
(1) Making adjustments or adaptation to premises	43.8%	49.5%	14.3%	42.1%
(2) Providing information in accessible formats	10.0%	9.8%	11.4%	10.5%
(3) Allocating some of the judicial team duties to another person	5.5%	5.98%	2.7%	0%
(4) Transferring to another bench or Court	8.7%	10.3%	0%	5.3%
(5) Altering your hours of working or the training you receive	10.5%	10.9%	8.6%	5.3%
(6) Accessing different forms of training	7.8%	8.7%	2.9%	5.3%
(7) Allowing a period of disability leave	10.0%	11.41%	2.9%	5.3%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	5.5%	4.9%	8.6%	5.3%
(9) Acquiring or modifying equipment	30.1%	30.4%	28.6%	21.1%
(10) Providing a reader or interpreter	2.7%	2.7%	2.86%	0%
(11) Providing supervision or other support	1.4%	1.6%	0%	0%
(12) Employing a support worker to assist a disabled magistrate	3.2%	3.8%	0%	5.3%
(13) Modifying disciplinary or grievance procedures	3.7%	4.3%	0%	0%
(14) Modifying performance or appraisal arrangements	7.8%	9.2%	0%	5.3%
(15) Modifying recruitment arrangements for opportunities in the bench	5.9%	7.1%	0%	0%
(16) Training of colleagues, managers and co-workers	14.6%	15.2%	14.4%	5.3%
(17) Modify a policy, procedure, practice or criterion	8.7%	9.2%	5.7%	5.3%
(18) None or not applicable	27.9%	26.1%	37.1%	42.1%
Other	4.6%	3.3%	11.4%	0%

Substrates

Variant	Response Received RR(all)	RR (TPAD EqA(y))	RR (TPAD EqA(n)(u))	RR (TPAD RA(y))
(1) Making adjustments or adaptation to premises	100	90	*	*
(2) Providing information in accessible formats	20	20	*	*
(3) Allocating some of the judicial team duties to another person	*	*	*	0
(4) Transferring to another bench or Court	20	20	0	*
(5) Altering your hours of working or the training you receive	20	20	*	*
(6) Accessing different forms of training	20	20	*	*
(7) Allowing a period of disability leave	20	20	*	*
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	*	*	*	*
(9) Acquiring or modifying equipment	70	60	*	*
(10) Providing a reader or interpreter	*	*	*	0
(11) Providing supervision or other support	*	*	0	0
(12) Employing a support worker to assist a disabled magistrate	*	*	0	*
(13) Modifying disciplinary or grievance procedures	*	*	0	0
(14) Modifying performance or appraisal arrangements	20	20	0	*
(15) Modifying recruitment arrangements for opportunities in the bench	*	*	0	0
(16) Training of colleagues, managers and co-workers	40	30	*	*
(17) Modify a policy, procedure, practice or criterion	20	20	*	*
(18) None or not applicable	60	50	*	*
Other	*	*	*	0

RR(RA(all)) returned respondents;

RR(EqA(y)) returned Respondents;

RR(EqA(n)(u)) returned respondents;

RR(RA(y)) returned respondents;

Data Protection Act 1998

*Denotes less than 20 responses recorded and not presented to prevent identification' The RR denoted records round down or up.

¹³⁷ There are 18 variables for EP denoted as EP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category

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Other

185. Respondents made the following comments under the 'other' category:

1. "Provide car parking adjacent to court."
2. "Arrange for accessible visits to prisons, YOI, probation."
3. "Not insisting we use touch-screens."
4. "No adjustments suitable - pain impacts on mobility."
5. "Nearby parking arrangements."
6. "Degenerative disc disease a support chair is available when I have bad days."
7. "Management being receptive to my requirements, for instance being receptive to my cancelling court at short notice when I am having one of my high pain days (referred to as a bad day)."
8. "Not being judgemental on medications. I was not allowed to sit having been prescribed methadone by my consultant."
9. "Better sound recording/amplification."
10. "Good loop system in all court rooms and public areas and for microphones to be used; with the clerk facing to court room unless they use the microphone I have no idea what was said."
11. "Stop insisting on sitting for full days."
12. "I can no longer carry bench book, should be able to claim sentencing guidelines app on expenses."
13. "Personal emergency evacuation plan."
14. "A suitable parking bay."
15. "Ensuring toilets near courts are disabled friendly."
16. "Need to provide wider parking spaces for use by the less mobile."
17. "Supply bench books in a user friendly form, e.g. for a person who has severe

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mobility problems the bench book is a nightmare.”

18. “Require lift access.”
19. “Parking reserved.”
20. “I can carry out all my duties.”
21. “Allow tea/coffee breaks and not work through lunch to enable blood sugar management.”
22. “The heating/air on drones at a pitch that makes it hard to hear in some courts. It would be nice if this could be altered.”
23. “I need footrest and seating support which is hard for me to carry to the three locations where I sit. I cannot carry the bench book at all and no adjustments to help me with this were suggested or offered.”
24. “The difficulty I have is in walking down ramps.”
25. “Not enough parking facilities.”
26. “As my main disability is mobility I have great difficulty with stairs. There is only one lift from the car park and when this is out of action I do not sit because I consider the type of material used in construction of the stairs means that if I stumble or fall then my injuries would be severe.”
27. “Providing seating that is fit for purpose for any magistrate, not giving us chairs that have been discarded by Judges sitting in Crown Court. Also providing an adequate microphone system in court so that EVERYONE can hear properly.”
28. “A reserved wide parking bay.”
29. “I don't make any fuss! Can currently manage.”
30. “Adequately maintaining hearing loops despite requests to do so.”
31. “Try and avoid court rooms with poor acoustics.”
32. “Ensure aids to hearing are in place. Above all - ensuring Legal Advisors and Solicitors speak clearly, using appropriate volume facing the bench. Women's voices can be especially challenging in this respect.”

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33. "Provide suitable car parking arrangements."
34. "Lack of disabled parking."
35. "Provision of a disabled toilet."
36. "Ensure full loop system at all time."
37. "Lift out of order and heating either boiling or non-existent."
38. "Turning on existing microphones in X court this has been requested many times but never done."
39. "Blue Badge parking space."

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Effective Productivity

186. The LJ Auld Report (The Right Honourable Lord Justice Auld, 2001)¹³⁸ highlighted a number of areas in the criminal justice system that required improvement in effective productivity terms both directly in respect of the work of Magistrates and the administration of the summary justice system. LJ Auld recognises that the productivity of a lay bench when compared with District Justices is lower for clear procedural reasons. In particular:

“District Judges because of their legal knowledge and experience and because they sit full-time and alone, are significantly faster and otherwise more efficient than magistrates who need to confer with each other and often take the advice of their court clerk. District Judges achieve this edge in speed whilst being more interventionist than magistrates.”

187. LJ Auld goes on to say that the real unit cost of employing District Judges is more expensive than the lay magistracy complement. Specifically, LJ Auld’s observations are helpful in respect of the human dynamics of magistrate efficiency for the purposes of expansiveness of disability prevalence amongst magistrates. Any increase in prevalence of Magistrates with disabilities could require further investment to maintain if not increase productivity because some disabilities create a detrimental effect on productivity when compared with non-disabling comparators.

188. Johnson et al (Johnson, 2014) (Zsidisin & Ritchie, 2009 Edition) (Russell & Taylor, 2014) characterise effective productivity as maximising output through incremental investment followed by enhanced organisational rationalisation and learning. The two main driving points noted for disability equalisation policy are to create efficiency and utilisation policies for those affected persons to have equal involvement or sometimes referred to as effective “keep up”. It was noted that there are additional protected characteristics or minority equalisation needs¹³⁹ which are not covered here.

189. Review of the literature suggests that in order to drive effective productivity investment for disability equalisation policies or services, the following points are helpful observation and identify an need to:

- Define effectiveness criteria and efficiency measures that drive all productivity requirements whilst understanding that equality may require additional investment particularly to reverse disability inequality;
- Deploy a disability organisational learning strategy focusing on doing the right things and learning from best practice;
- Ensure resource utilisation objectives are goal-orientated and establish delivery-focused improvements specifically driving disability equality outcomes (consider distribution along the naturally occurring impairment phenomena) over the long term;
- Examine and periodically re-examine what the organisation is doing;
- Promote a culture of continuous improvement of services deployed;
- Monitor resources deployed to result in equal contribution across all economic talent;
- Engage all economic talents in activities that can be measured effectively;
- Prioritise resources based on potential ability to maximise realisation of disability related business benefits;
- Orientated key personnel towards management, organisational and personal outcomes;
- Invest in pre-emptible adaptations to premises, computerisation, streamline communication, efficiency-based auxiliary aiding and re-arrange the physical environment not only to comply with S149 of the Equality Act 2010 but also to anticipate a long term goal of disability needs within the community.

¹³⁸ The Auld Report, Ministry of Justice, 2001 <http://webarchive.nationalarchives.gov.uk/+/http://www.criminal-courts-review.org.uk/auldconts.htm>

¹³⁹ Better Services, Better Health, The healthcare experiences of Black and minority ethnic disabled people; Sonali Shah and Mark Priestly; Leeds Involvement Project; Leeds Health Action Zone; 2001; <http://disability-studies.leeds.ac.uk/files/2011/10/LIPfinalreport.pdf>

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Context and Discourse Analysis

190. Having regard to the qualitative feedback from the survey participants, the above observations would effectively characterise a strategic organisation that seek to enable disabled persons:

- To maximise their contribution to the community as a whole;
- To feel confident that they can propose adjustments which they feel will be implemented to contribute as an equally valued team player on a bench on any particular sitting;
- To maintain dignity at work knowing that the organisation has policies in place which seeks to eliminate discrimination on the grounds of disability;
- To ensure that there is an effective system in place for delivering highly efficient reasonable adjustments.

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Reasonable Adjustment by impairments group [all][EP] {TPAD}

(Series Impairment (n))	(Series Impairment (n))	(Series Impairment (n))															
(1) Hearing related	(6) Intellectual or mental related	(11) Digestive	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(2) Vision related	(7) Brain injury related	(12) Reproductive															
(3) Arthritis Orthopaedic related	(8) Speech	(13) Blood related															
(4) Respiratory	(9) Communication	(14) Cancer															
(5) Heart	(10) Neuromuscular Skeletal	(15) Other															
Answer Options Reasonable Adjustment ¹⁴⁰ EP(n)/ Impairment ¹⁴¹ (n)			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(1) Making adjustments or adaptation to premises			19.8%	9.4%	54.2%	18.6%	11.5%	6.3%	0%	5.2%	0%	28.1%	4.2%	0%	4.2%	9.4%	6.3%
(2) Providing information in accessible formats			22.7%	45.6%	18.1%	4.6%	4.6%	9.1%	0%	13.6%	9.10%	22.7%	0%	0%	4.6%	4.6%	18.2%
(3) Allocating some of the judicial team duties to another person			0%	16.7%	25%	16.7%	0%	25%	0%	8.3%	8.3%	8.3%	0%	0%	8.33%	16.7%	8.3%
(4) Transferring to another bench or Court			5.3%	10.6%	47.4%	31.6%	21.1%	21.1%	0%	5.3%	0%	10.5%	0%	0%	10.5%	15.8%	5.25%
(5) Altering your hours of working or the training you receive			8.7%	4.4%	43.5%	21.7%	17.4%	30.4%	4.4%	4.4%	0%	26.1%	8.7%	0%	13.1%	17.4%	13.1%
(6) Accessing different forms of training			17.7%	23.5%	35.3%	23.5%	17.7%	29.4%	0%	5.9%	11.8%	29.4%	5.9%	0%	5.9%	11.8%	5.9%
(7) Allowing a period of disability leave			13.7%	9.1%	40.9%	9.1%	9.1%	13.6%	0%	4.6%	0%	36.4%	9.1%	0%	18.2%	18.2%	18.2%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)			16.7%	25%	25%	8.3%	8.3%	33.3%	0%	0%	8.3%	16.7%	0%	0%	0%	16.7%	0%
(9) Acquiring or modifying equipment			33.3%	10.6%	48.5%	18.2%	16.7%	7.6%	1.5%	3.0%	1.52%	27.3%	3.0%	0%	7.6%	6.1%	3.0%
(10) Providing a reader or interpreter			50%	83.3%	0%	16.7%	16.7%	16.7%	0%	16.7%	16.7%	16.7%	0%	0%	0%	0%	0%
(11) Providing supervision or other support			33.3%	67.7%	0%	0%	0%	33.3%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(12) Employing a support worker to assist a disabled magistrate			14.3%	28.6%	42.9%	0%	0%	0%	0%	14.3%	0%	28.6%	0%	0%	14.3%	14.3%	14.3%
(13) Modifying disciplinary or grievance procedures			12.5%	12.5%	37.5%	12.5%	0%	25%	0%	12.5%	0%	0%	0%	0%	25%	25%	12.5%
(14) Modifying performance or appraisal arrangements			5.9%	17.7%	35.3%	11.8%	5.9%	17.7%	0%	0%	5.9%	23.6%	0%	0%	17.7%	11.8%	0%
(15) Modifying recruitment arrangements for opportunities in the bench			15.4%	23.1%	53.9%	15.4%	0%	7.7%	0%	7.7%	7.7%	23.1%	0%	0%	23.1%	7.7%	7.7%
(16) Training of colleagues, managers and co-workers			18.8%	21.9%	37.5%	15.6%	12.5%	25.0%	0%	6.3%	9.4%	25.0%	3.1%	0%	9.4%	9.4%	6.3%
(17) Modify a policy, procedure, practice or criterion			10.5%	10.8%	57.9%	15.8%	10.5%	10.5%	0%	5.3%	0%	26.3%	0%	0%	10.5%	5.3%	0%
(18) None or not applicable			26.2%	4.9%	45.9%	16.4%	16.4%	3.3%	0%	1.6%	1.6%	19.7%	6.6%	0%	1.6%	1.6%	6.6%

¹⁴⁰ There are 18 variables for EP denoted as EP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category throughout the survey

¹⁴¹ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Reasonable Adjustment by impairments group [EqA(Y)] [EP] {TPAD}CSS

Answer Options Reasonable Adjustment ¹⁴² EP(n)/ Impairment ¹⁴³ (n)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(1) Making adjustments or adaptation to premises	19.8%	9.9%	53.9%	18.7%	12.1%	6.6%	0%	5.5%	0%	29.7%	4.4%	0%	4.4%	9.9%	5.5%
(2) Providing information in accessible formats	22.2%	50%	22.2%	5.6%	5.6%	5.6%	0%	5.6%	0	27.8%	0%	0%	5.6%	5.6%	16.7%
(3) Allocating some of the judicial team duties to another person	0%	18.2%	27.3%	18.2%	0%	27.3%	0%	0%	9.1%	9.1%	0%	0%	9.1%	18.2%	0%
(4) Transferring to another bench or Court	5.3%	10.5%	47.4%	31.6%	21.1%	21.1%	0%	5.3%	0%	10.5%	0%	0%	10.5%	15.8%	5.25%
(5) Altering your hours of working or the training you receive	10%	5%	40%	25%	20%	30%	0%	5%	0%	25%	5%	0%	15%	20%	15%
(6) Accessing different forms of training	18.8%	25%	37.5%	25%	18.6%	25%	0%	6.25%	6.25%	31.3%	6.25%	0%	6.25%	12.5%	6.25%
(7) Allowing a period of disability leave	14.3%	9.5%	38.1%	9.5%	9.5%	14.3%	0%	4.8%	0%	38.1%	9.5%	0%	19.1%	19.1%	19.1%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	11.1%	33.3%	22.2%	0%	11.1%	33.3%	0%	0%	0%	22.2%	0%	0%	0%	22.2%	0%
(9) Acquiring or modifying equipment	30.4%	12.5%	50%	19.7%	17.9%	8.9%	1.8%	1.8%	0%	30.4%	3.6%	0%	8.9%	7.1%	3.6%
(10) Providing a reader or interpreter	40%	100%	0%	20%	20%	20%	0%	0%	0%	20%	0%	0%	0%	0%	0%
(11) Providing supervision or other support	33.3%	66.7%	0%	0%	0%	33.3%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(12) Employing a support worker to assist a disabled magistrate	14.3%	28.6%	42.9%	0%	0%	0%	0%	14.3%	0%	28.6%	0%	0%	14.3%	14.3%	14.3%
(13) Modifying disciplinary or grievance procedures	12.5%	12.5%	37.5%	12.5%	0%	25%	0%	12.5%	0%	0%	0%	0%	25%	25%	12.5%
(14) Modifying performance or appraisal arrangements	5.9%	17.7%	35.3%	11.8%	5.9%	17.7%	0%	0%	5.9%	23.6%	0%	0%	17.7%	11.8%	0%
(15) Modifying recruitment arrangements for opportunities in the bench	15.4%	23.1%	53.9%	15.4%	0%	7.7%	0%	7.7%	7.7%	23.1%	0%	0%	23.1%	7.7%	7.7%
(16) Training of colleagues, managers and co-workers	14.3%	25%	39.3%	14.3%	14.3%	25.0%	0%	3.6%	3.6%	28.6%	3.6%	0%	10.7%	10.7%	7.1%
(17) Modify a policy, procedure, practice or criterion	11.8%	11.8%	58.8%	17.7%	11.8%	11.8%	0%	5.8%	0%	29.4%	0%	0%	11.8%	5.8%	0%
(18) None or not applicable	22.9%	6.25%	45.8%	18.8%	18.8%	4.2%	0%	2.1%	2.1%	20.9%	8.3%	0%	2.1%	2.1%	4.2%

¹⁴² There are 18 variables for EP denoted as EP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category throughout the survey

¹⁴³ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Reasonable Adjustment by impairments [EqA(n)(u)] [EP] [TPAD]{CSS}

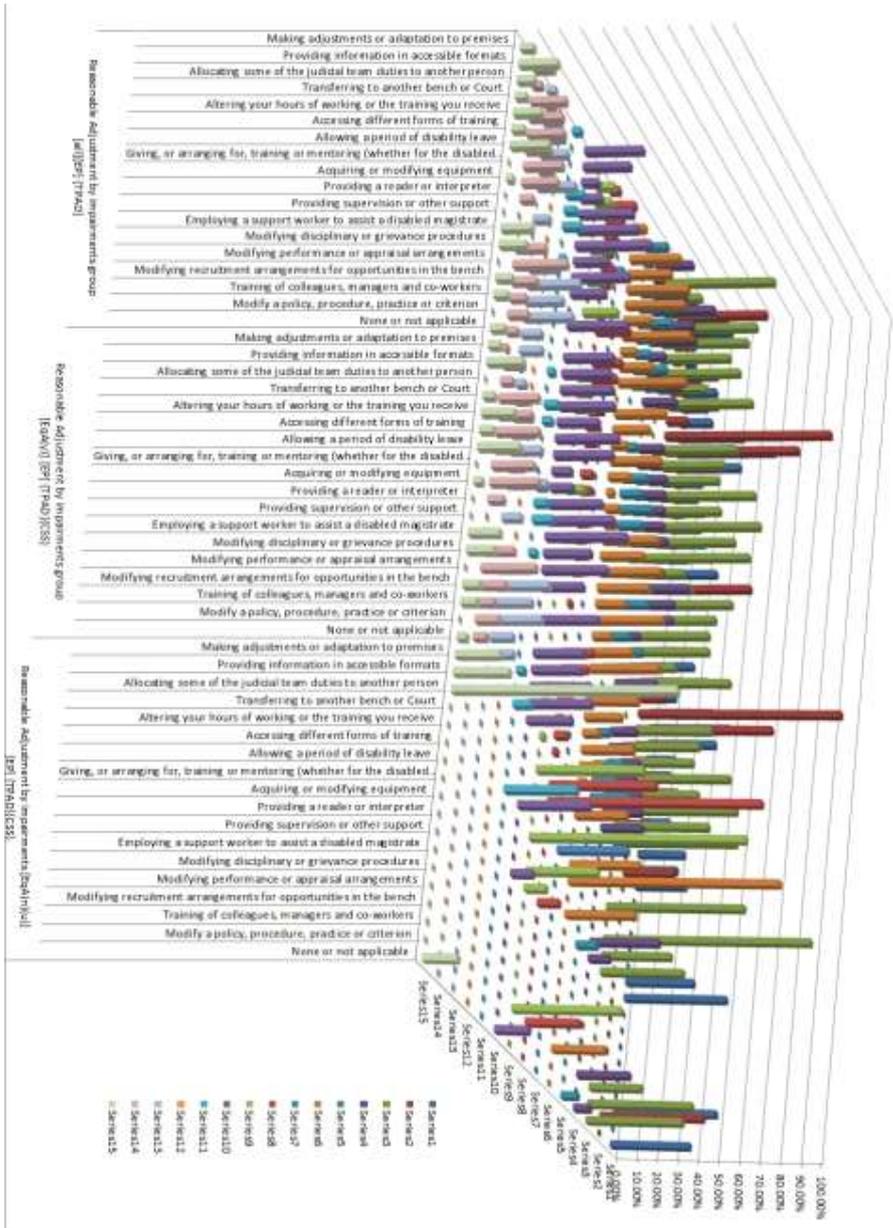
Answer Options Reasonable Adjustment ¹⁴⁴ EP(n) / Impairment ¹⁴⁵ (n)	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(1) Making adjustments or adaptation to premises	20%	0%	60%	20%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	20%
(2) Providing information in accessible formats	25%	25%	0%	0%	0%	25%	0%	50%	50%	0%	0%	0%	0%	0%	25%
(3) Allocating some of the judicial team duties to another person	0%	0%	0%	0%	0%	0%	0%	100%	0%	0%	0%	0%	0%	0%	100%
(4) Transferring to another bench or Court	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(5) Altering your hours of working or the training you receive	0%	0%	66.7%	0%	0%	33.3%	33.3%	0%	0%	33.3%	33.3%	0%	0%	0%	0%
(6) Accessing different forms of training	0%	0%	0%	0%	0%	100%	0%	0%	100%	0%	0%	0%	0%	0%	0%
(7) Allowing a period of disability leave	0%	0%	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	33.3%	0%	33.3%	33.3%	0%	33.3%	0%	0%	33.3%	33.3%	0%	0%	0%	0%	0%
(9) Acquiring or modifying equipment	50%	0%	40%	10%	10%	0%	0%	10%	10%	10%	0%	0%	0%	0%	0%
(10) Providing a reader or interpreter	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(11) Providing supervision or other support	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(12) Employing a support worker to assist a disabled magistrate	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(13) Modifying disciplinary or grievance procedures	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(14) Modifying performance or appraisal arrangements	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(15) Modifying recruitment arrangements for opportunities in the bench	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(16) Training of colleagues, managers and co-workers	50%	0%	25%	25%	0%	25.0%	0%	25%	50%	0%	0%	0%	0%	0%	0%
(17) Modify a policy, procedure, practice or criterion	0%	50%	50%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(18) None or not applicable	38.5%	0%	46.2%	7.7%	7.7%	0%	0%	0%	0%	15.4%	0%	0%	0%	0%	15.4%

¹⁴⁴ There are 18 variables for EP denoted as EP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category throughout the survey

¹⁴⁵ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Multivariate Comparator: Reasonable Adjustment by impairments [EP] Effective Productivity DFIs (Opportunities)



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Summary of Analysis

191. As demonstrated in the reasonable adjustments schematic referred to earlier in the comparator –the Parliamentary Disability Assistance Programme for public office-holders and support staff - reasonable adjustments both enable access to office and improve productivity in the conduct of office. As parliament has indicated “disabled persons themselves have a better understanding of the reasonable adjustments necessary to work effectively and in comfort”. Furthermore, understanding should be enhanced when the judiciary creates a comparative disabled person-led policy provided that it is promoted and communicated effectively to magistrates with disabilities.

192. The TPAD survey data provides an interesting array of results on the sample range of reasonable adjustments which could be made with reference to the Equality Act Code of Practices:

- The priorities for the making of reasonable adjustments included making adjustments or adaptations to premises which was promoted by 43.81% which, interestingly, when the EqA(y) variable was applied the promotion increased to 49.5% of the Respondents but conversely, when the residual variant EqA(n)(u) was applied the Respondents inclinations dropped to 35.5% to 14.3%. When the Respondents stated that full reasonable adjustments had been made, denoted by the variable RA(y), the overall rate reduced marginally [within the subset] to 42.11% and a further correlated sub-selection (CSS) applied with (i) EqA(y) variable resulted in further correlation at 41.2% and application of EqA(n)(u) variable within the same {CSS} resulted, conversely, in an increase promotion of that category of reasonable adjustments to 50%.
- The need to acquire or modify equipment with 30.1% identifying, overall, being broadly consistent when the EqA(y) variable applied resulting in 30.4% and similarly when applying the EqA(n)(u) resulting in 28.6%. When the Respondents stated that full reasonable adjustments had been made, denoted by the variable RA(y), the overall rate reduced marginally [within the subset] to 21.1% and a further correlated sub-selection (CSS) applied with (i) EqA(y) variable resulted in further correlation at 23.5% and application of EqA(n)(u) variable within the same {CSS} resulted, conversely, in a dramatic decrease in promotion of that category of reasonable adjustments to 0%.
- Interestingly, 27.9% of Magistrates with disabilities said that no reasonable adjustments were implemented or were not applicable. This level of promotion remained consistent when the EqA(y) variable was applied resulting in minor decrease at 26.1%. Conversely, when the variable EqA(n)(u) was applied to the same subset the level of promotion increased by 10.8% to 37.1%. It is noteworthy that some Magistrates with disabilities quite rightly expressed concerns that “none” and “not applicable” were not the same. In terms of productivity analysis, or needs to secure investment for reasonable adjustments, there was either a need for resources or not; but the distinction is of course important and will inform future studies as a separate variant substrate for comparative analysis. When the Respondents stated that full reasonable adjustments had been made, denoted by the variable RA(y), the overall rate reduced marginally [within the subset] to 42.1% and a further correlated sub-selection (CSS) applied with (i) EqA(y) variable resulted in further correlation at 47.1% and application of EqA(n)(u) variable within the same {CSS} resulted, conversely, in a dramatic decrease in promotion of that category of reasonable adjustments to 0%.
- 14.6% of Magistrates with disabilities promoted that there was a need to train colleagues, managers and co-worker with disability awareness training. The level of promotion remained consistent at 14.6% expressing the need overall, increasing to 15.2% when the EqA(y) variable was applied and broadly the same when the EqA(n)(u) is applied resulting in 14.4% expressing the need. When the Respondents stated that full reasonable adjustments had been made, denoted by the variable RA(y), the overall rate reduced marginally [within the subset] to 5.26% and a further correlated sub-selection (CSS) applied with (i) EqA(y) variable resulted in further correlation at 5.88% and application of EqA(n)(u) variable within the same {CSS} resulted, conversely, in a dramatic decrease in promotion of that category of reasonable adjustments to 0%.
- 10% of Magistrates with disabilities promoted that there was a need to provide information in an accessible format overall; slightly reducing to 9.8% when the variable EqA(y) is applied, and conversely, promotion increasing to 11.4% when the EqA(n)(u) variable was applied. When the Respondents stated that full reasonable adjustments had been made, denoted by the variable RA(y), the overall rate increased marginally [within the subset] to 10.6% and a further correlated sub-selection (CSS) applied with (i) EqA(y) variable resulted in further correlation at 11.76% and application of EqA(n)(u) variable within the same {CSS} resulted, conversely, in a dramatic decrease in promotion of that category of reasonable adjustments to 0%.
- 10.5% of Magistrates with disabilities promoted that there was a need to alter hours of work or training received overall; slightly increasing 10.5% when the variable EqA(y) was applied and reducing to 8.6% when the variable EqA(n)(u) was applied. When the Respondents stated that full reasonable adjustments had been made, denoted by the variable RA(y), the overall rate reduced [within the subset] to 5.26% and a further correlated sub-selection (CSS) applied with (i) EqA(y) variable resulted in further correlation at 5.88% and application of EqA(n)(u) variable within the same {CSS} resulted, conversely, in a dramatic decrease in promotion of that category of reasonable adjustments to 0%.

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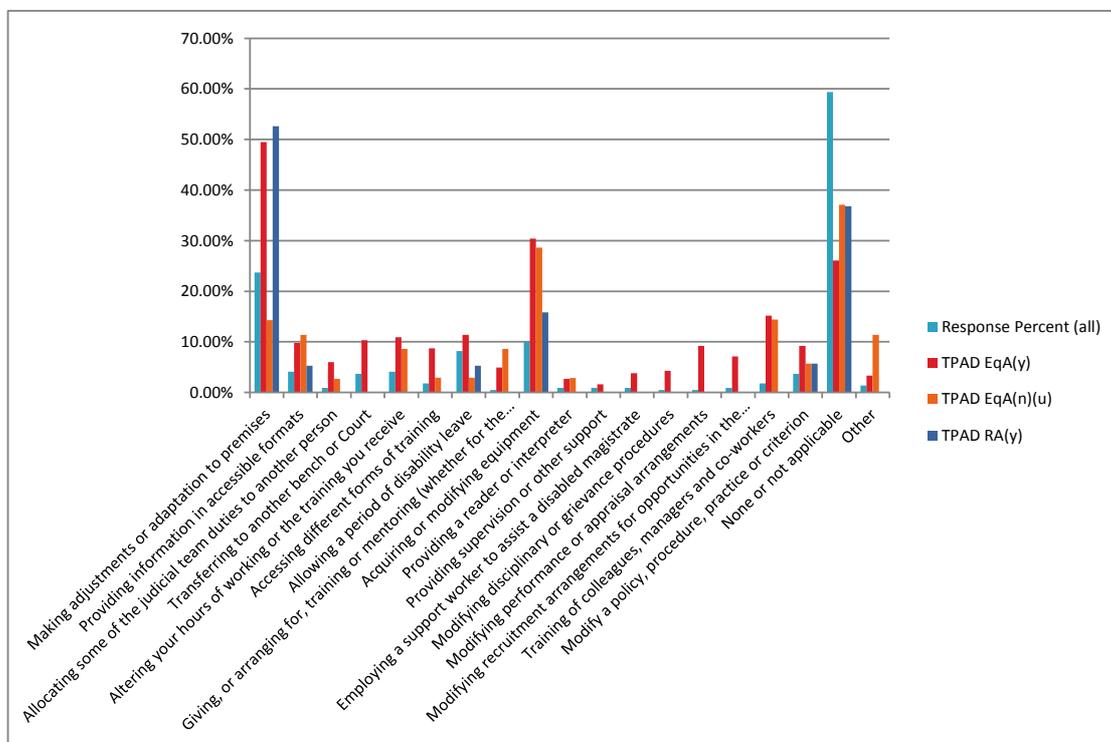
- 10% of Magistrates with disabilities promoted the need to allow a period of disability leave overall; slightly increasing to 11.4% when the variable EqA(y) was applied and interestingly reducing by 2.91% to 8.56% when the EqA(n)(u) variable was applied. When the Respondents stated that full reasonable adjustments had been made, denoted by the variable RA(y), the overall rate reduced marginally [within the subset] to 5.26% and a further correlated sub-selection (CSS) applied with (i) EqA(y) variable resulted in further correlation at 5.88% and application of EqA(n)(u) variable within the same {CSS} resulted, conversely, in a dramatic decrease in promotion of that category of reasonable adjustments to 0%.
- Overall participants who identified with the impairment groups arthritis/orthopaedic at 54.2%, neuromuscular skeletal at 28.1%, hearing at 19.8% and respiratory at 18.6% were most likely to engage with the making of a adjustments or adaptations to premises to support their effective productivity in carrying out their role as a magistrate with disabilities; followed by arthritis/orthopaedic at 37.5%, neuromuscular skeletal at 25%; vision at 21.9% and hearing at 18.8% were most likely to engage with the need to train colleagues, managers and co-workers to support their effective productivity in carrying out their role as a magistrate with disabilities. Consistently, those participants who recorded incidence of respiratory impairment, arthritis/orthopaedic impairment, neuromuscular skeletal impairment, hearing, vision, blood related impairment and cancer related impairment required reasonable adjustments to a judicial policy, criterion or process to effectively carry out their duties as a magistrate with disabilities.
- Finally, Magistrates felt less likely to promote:
 - i. 'supervision or other support' at roughly the same consistency at 1.4% across the variant subsets;
 - ii. 'providing an interpreter or reader' at roughly the same consistency across the variant subsets;
 - iii. 'employing a support worker' for a disabled magistrate at overall 3.2%; increasing to 3.8% when the variable EqA(y) was applied and non-existent at 0% when the variable EqA(n)(u).

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5.9 Question 6: Reasonable Adjustments (OP) implemented (current policy)

Results by Reasonable Adjustments: Operational Productivity

Figure 9 Reasonable adjustments (currently deployed)



Data Sheet by Reasonable Adjustment: Operational Productivity

Answer Option OP(n) where (n) is the Reasonable Adjustment Category ¹⁴⁶ referred to in the Equality Act 2010 Codes of Practice	Response Percent (all)	TPAD EqA(y)	TPAD EqA(n)(u)	TPAD RA(y)
(1) Making adjustments or adaptation to premises	23.7%	49.5%	14.3%	52.6%
(2) Providing information in accessible formats	4.1%	9.8%	11.4%	5.3%
(3) Allocating some of the judicial team duties to another person	0.9%	5.98%	2.7%	0%
(4) Transferring to another bench or Court	3.7%	10.3%	0%	0%
(5) Altering your hours of working or the training you receive	4.1%	10.9%	8.6%	0%
(6) Accessing different forms of training	1.8%	8.7%	2.9%	0%
(7) Allowing a period of disability leave	8.2%	11.41%	2.9%	5.3%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	0.5%	4.9%	8.6%	0%
(9) Acquiring or modifying equipment	10.0%	30.4%	28.6%	15.8%
(10) Providing a reader or interpreter	0.9%	2.7%	2.86%	0%
(11) Providing supervision or other support	0.9%	1.6%	0%	0%
(12) Employing a support worker to assist a disabled magistrate	0.9%	3.8%	0%	0%
(13) Modifying disciplinary or grievance procedures	0.5%	4.3%	0%	0%
(14) Modifying performance or appraisal arrangements	0.5%	9.2%	0%	0%
(15) Modifying recruitment arrangements for opportunities in the bench	0.9%	7.1%	0%	0%
(16) Training of colleagues, managers and co-workers	1.8%	15.2%	14.4%	0%
(17) Modify a policy, procedure, practice or criterion	3.7%	9.2%	5.7%	5.7%
(18) None or not applicable	59.4%	26.1%	37.1%	36.8%
Other	1.4%	3.3%	11.4%	0%

¹⁴⁶ There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category

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Substrates

Variant	Response Received RR(all)	RR (TPAD EqA(y))	RR (TPAD EqA(n)(u))	RR (TPAD RA(y))
(1) Making adjustments or adaptation to premises	50	25	*	*
(2) Providing information in accessible formats	*	*	0	*
(3) Allocating some of the judicial team duties to another person	*	*	*	0
(4) Transferring to another bench or Court	*	*	0	0
(5) Altering your hours of working or the training you receive	*	*	*	0
(6) Accessing different forms of training	*	*	0	0
(7) Allowing a period of disability leave	20	20	*	*
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	*	0	*	0
(9) Acquiring or modifying equipment	20	*	*	*
(10) Providing a reader or interpreter	*	*	0	0
(11) Providing supervision or other support	*	*	0	0
(12) Employing a support worker to assist a disabled magistrate	*	*	0	0
(13) Modifying disciplinary or grievance procedures	*	*	0	0
(14) Modifying performance or appraisal arrangements	*	*	0	0
(15) Modifying recruitment arrangements for opportunities in the bench	*	*	0	0
(16) Training of colleagues, managers and co-workers	*	*	0	0
(17) Modify a policy, procedure, practice or criterion	*	*	*	*
(18) None or not applicable	130	104	26	*
Other	*	*	*	0

Data Protection Act 1998

*Denotes less than 20 responses recorded and not presented to prevent identification
The RR denoted records round down or up.

RR(RA(all)) returned respondents;

RR(EqA(y)) returned Respondents;

RR(EqA(n)(u)) returned respondents;

RR(RA(y)) returned respondents.

Other

193. Respondents made the following comments under the 'other' category:

1. "Some accessible formats and some readers."
2. "Very little. Haven't even supplied door that can be locked open very heavy"
3. "None does not mean not applicable!"
4. "Sit only half days."
5. "None."
6. "Lift provided."
7. "None."
8. "Some adaptations have been made to premises but are not adequate, to help disabled magistrates including myself."
9. "Car park provision."

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10. "The majority of chairs on the bench are suitable for me both in height and lumbar support. There are provided at least three disabled places provided in the car park. Other magistrates and staff are always on hand to assist me if I require it."
11. "Providing a reserved wide parking bay."
12. "Taps were changed at my request."
13. "Maintaining hearing loops to ensure their effective operation."
14. "Little was done for me - I purchased, at considerable expense better hearing aids which enable me to hear proceeding better than before ... and better than some colleagues."
15. "None for hearing, equipment and adjustments in place for Wheelchairs (don't have any) and sight."
16. "None."

Operational Productivity

194. Any researcher or organisation who carries out disability research which seeks to examine some of the first principle dynamics, ergonomics or economics of making reasonable adjustments are probably going to ascertain an operational productivity deficit between those aspects of policy deployed and those perceived to be more effective.

195. LJ Auld pointed out that the work of a three Magistrates' bench is humanistic and ergonomic by nature because it involves listening, reading, writing and discussing. Many other professions, including paid professional judicial comparators, are highly computerised and involve the efficiency of one person more often than not interfacing with computer equipment independently. A bench of three magistrates must work as a team, be effectively trained to produce outputs as a team, and adjudicate criminal trials and make determinations as a team. The production of joint outcomes is driven by ergonomic-multivariate facilitation. Magistrates with disabilities may have a range of resource needs, which the team sitting may need to accommodate or be trained to understand and accommodate. Magistrates are not experts in disability by any means and the need for providing auxiliary aids, adapting physical premises or adjusting policies, practice or criteria requires management, co-ordination, training and resources.

196. There is a causal effect with making reasonable adjustments and what LJ Auld refers to as the absent co-efficiency of hearing cases on a bench as opposed to by a District Judge. Any future policy to increase the prevalence of magistrates with disabilities will require investment planning, impact assessment on productivity and training of judicial colleagues on disability issues. Conversely, the higher degree of magistrates with disabilities prevalence (realisation as opposed to policy) will increase disability awareness amongst the magistracy itself, the judiciary as a whole and the criminal justice system - as a need for greater efficiency, support and delivery will be led by necessity and demand.

197. Adanza and others (Adanza, 1995) (Gendreau & Potvin, 2012 (2010 Edition)) (Slack, Brandon-Jones, & Johnston, Operations Management, 2013) (Slack, Brandon-Jones, & Johnston, Operations Management, 2013) (Stevenson, 2014) considers that operational productivity is the operationalization of processes needed to determined business needs, performance duration and quality. The deployment of resources [C]; and through learning from re-arrangement of resources deployed [C] [T] drive return on investment, business benefits realisation and utilisation of all of the talents at the disposal of the organisation [Q].

198. Current operational management literature suggest important observations or parameters about the operational productivity of disability equality policy and its delivery including:

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- Recognising the state of play or status quo and doing nothing drives productivity in a downward trajectory because failing to learn from experience, customers and the social composition of the organisation do not drive equality behaviour;
- Professionalism and developmental activity deployed;
- Skills transferability deployed;
- Level of esteem deployed by those affected with operationalised business design or inadequate effective systems;
- Occupational standards;
- HMCTS and Magistrates Competency Framework;
- Career pathways;
- Training Needs Analysis;
- Future operational training needs following policy feedback or performance measurement;
- Failure to identify the operational productivity deficit when compared with the potential effective productivity models;
- Absence of resourcing policy and services for delivering or accommodating people with detrimental productivity arising from a broad range of disabilities.

Context and Discourse Analysis

199. Having regard to the qualitative feedback from the survey participants, organisations who do not effectively manage operational productivity are often characterised by disabled persons as:

- Failing to be an equal opportunities organisation and lacking the strategic insight necessary to bring about disability equalisation for the good of everybody in society;
- Failing in their legal and moral duty to represent the society which they seek to serve as public institutions;
- Merely attempting to comply with the basic tenet of anti-discrimination legislation rather than being an example of a leader in equality and diversity.

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Reasonable Adjustment by impairments group [all][OP] {TPAD}

Reasonable Adjustment ¹⁴⁷ OP(n)/ Impairment(n) ¹⁴⁸	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(1) Making adjustments or adaptation to premises	15.4%	9.6%	40.4%	17.3%	13.5%	1.9%	0%	5.8%	0%	26.9%	3.9%	0%	1.9%	5.7%	9.6%
(2) Providing information in accessible formats	11.1%	55.6%	33.4%	22.3%	0%	0%	0%	11.1%	0%	11.1%	0%	0%	0%	0%	22.3%
(3) Allocating some of the judicial team duties to another person	0%	50%	0%	0%	0%	0%	0%	50%	0%	0%	0%	0%	0%	0%	50%
(4) Transferring to another bench or Court	12.5%	25%	37.5%	12.5%	0%	0%	0%	0%	0%	25%	0%	0%	0%	12.5%	0%
(5) Altering your hours of working or the training you receive	11.1%	11.1%	33.3%	33.3%	33.3%	22.2%	0%	0%	0%	33.3%	11.1%	0%	22.2%	22.2%	0%
(6) Accessing different forms of training	0%	25%	25%	25%	50%	0%	0%	0%	0%	0%	0%	0%	25%	50%	0%
(7) Allowing a period of disability leave	16.7%	0%	38.9%	5.6%	11.1%	11.1%	5.6%	0%	5.6%	27.8%	11.1%	0%	16.7%	22.2%	0%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(9) Acquiring or modifying equipment	13.6%	4.6%	45.5%	9.1%	18.2%	4.6%	0%	4.6%	0%	40.9%	13.6%	0%	13.6%	13.6%	9.1%
(10) Providing a reader or interpreter	50%	50%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(11) Providing supervision or other support	0%	0%	100%	0%	0%	0%	0%	0%	0%	50%	50%	0%	50%	0%	0%
(12) Employing a support worker to assist a disabled magistrate	50%	0%	50%	0%	0%	0%	0%	0%	0%	50%	0%	0%	0%	0%	0%
(13) Modifying disciplinary or grievance procedures	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(14) Modifying performance or appraisal arrangements	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%	100%	0%
(15) Modifying recruitment arrangements for opportunities in the bench	0%	0%	100%	0%	50%	0%	0%	0%	0%	50%	0%	0%	0%	50%	0%
(16) Training of colleagues, managers and co-workers	0%	25%	25%	0%	0%	0%	0%	0%	0%	50%	0%	0%	25%	0%	0%
(17) Modify a policy, procedure, practice or criterion	25%	25%	50%	37.5%	25%	12.5%	0%	12.5%	0%	37.5%	12.5%	0%	0%	0%	0%
(18) None or not applicable	29.2%	6.1%	48.5%	12.3%	10%	6.9%	0.8%	2.3%	23%	23.1%	4.6%	0%	1.5%	4.6%	6.9%

¹⁴⁷ There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category throughout the survey

¹⁴⁸ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Reasonable Adjustment by impairments group [EqA(Y)][OP] {TPAD}

Reasonable Adjustment ¹⁴⁸ OP(n)/ Impairment(n) ¹⁵⁰	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(1) Making adjustments or adaptation to premises	14.3%	10.2%	40.8%	18.4%	12.2%	3.3%	0%	6.1%	0%	28.6%	4.1%	0%	2.1%	6.1%	8.2%
(2) Providing information in accessible formats	11.1%	55.6%	33.3%	22.2%	0%	0%	0%	11.1%	0%	11.1%	0%	0%	0%	0%	22.2%
(3) Allocating some of the judicial team duties to another person	0%	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(4) Transferring to another bench or Court	12.5%	25%	37.5%	12.5%	0%	0%	0%	0%	0%	25%	0%	0%	0%	12.5%	0%
(5) Altering your hours of working or the training you receive	12.5%	12.5%	37.5%	37.5%	37.5%	25%	0%	0%	0%	12.5%	12.5%	0%	25%	25%	0%
(6) Accessing different forms of training	0%	25%	25%	25%	50%	0%	0%	0%	0%	0%	0%	0%	25%	50%	0%
(7) Allowing a period of disability leave	11.8%	0%	41.2%	5.9%	11.8%	11.8%	5.9%	0%	5.9%	29.4%	11.8%	0%	17.7%	23.5%	0%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(9) Acquiring or modifying equipment	10%	5%	50%	10%	15%	5%	0%	5%	0%	40%	15%	0%	15%	15%	10%
(10) Providing a reader or interpreter	50%	50%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(11) Providing supervision or other support	0%	0%	100%	0%	0%	0%	0%	0%	0%	50%	50%	0%	50%	0%	0%
(12) Employing a support worker to assist a disabled magistrate	50%	0%	50%	0%	0%	0%	0%	0%	0%	50%	0%	0%	0%	0%	0%
(13) Modifying disciplinary or grievance procedures	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(14) Modifying performance or appraisal arrangements	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%	100%	0%
(15) Modifying recruitment arrangements for opportunities in the bench	0%	0%	100%	0%	0%	0%	0%	0%	0%	50%	0%	0%	0%	50%	0%
(16) Training of colleagues, managers and co-workers	0%	25%	25%	0%	0%	0%	0%	0%	0%	50%	0%	0%	25%	0%	0%
(17) Modify a policy, procedure, practice or criterion	28.6%	14.3%	57.1%	42.9%	28.6%	14.3%	0%	14.3%	0%	42.9%	14.3%	0%	0%	0%	0%
(18) None or not applicable	26.9%	6.7%	49%	13.5%	11.5%	6.7%	0%	1.9%	1%	26.9%	4.8%	0%	1.9%	5.8%	6.7%

¹⁴⁸ There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category throughout the survey

¹⁵⁰ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Reasonable Adjustment by impairments group [EqA(n)(u)][OP] {TPAD}

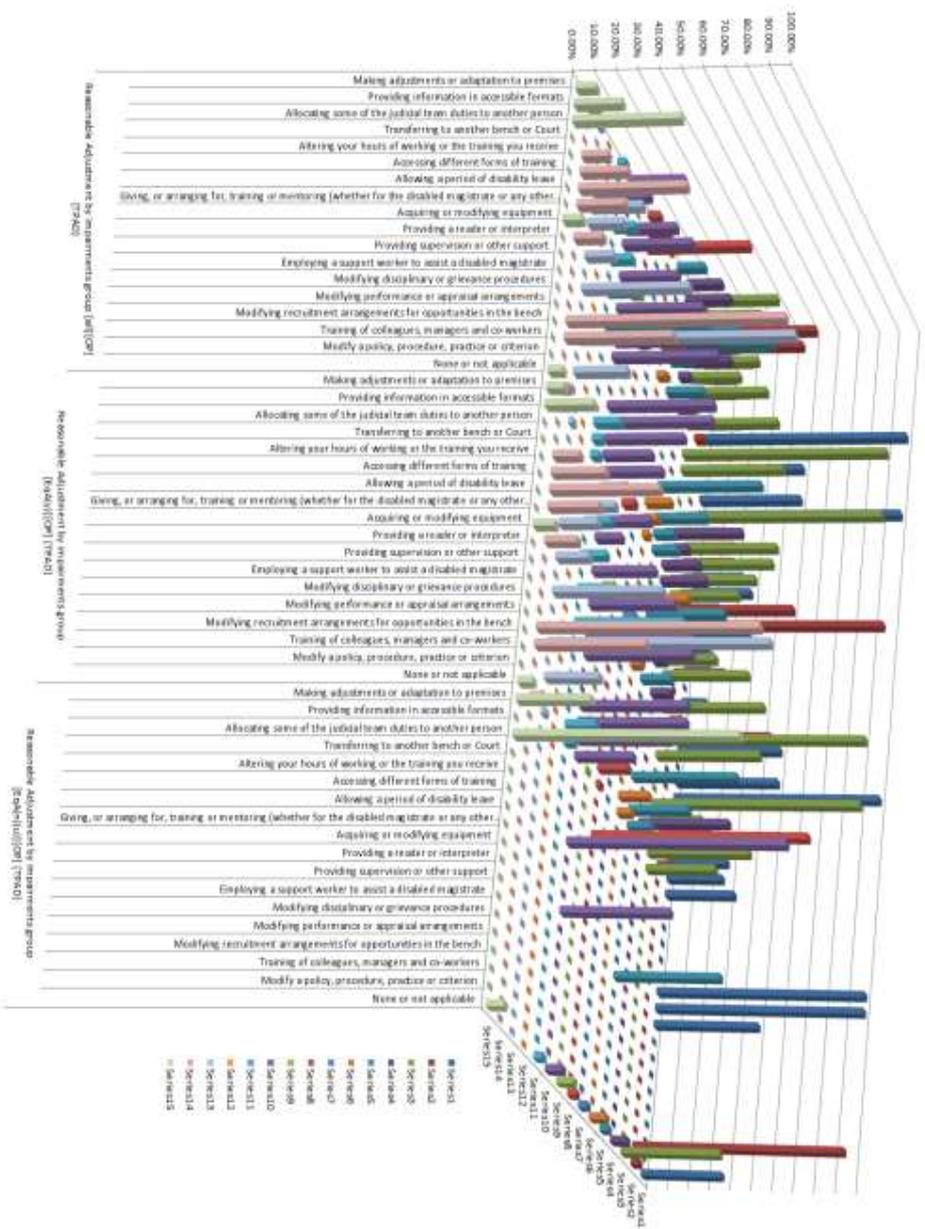
Reasonable Adjustment ¹⁵¹ OP(n)/ Impairment(n) ¹⁵²	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(1) Making adjustments or adaptation to premises	33.3%	0%	33.3%	0%	33.3%	0%	0%	0%	0%	0%	0%	0%	0%	0%	33.3%
(2) Providing information in accessible formats	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(3) Allocating some of the judicial team duties to another person	0%	0%	0%	0%	0%	0%	0%	100%	0%	0%	0%	0%	0%	0%	100%
(4) Transferring to another bench or Court	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(5) Altering your hours of working or the training you receive	0%	0%	0%	0%	0%	0%	0%	0%	0%	100%	0%	0%	0%	0%	0%
(6) Accessing different forms of training	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(7) Allowing a period of disability leave	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(9) Acquiring or modifying equipment	50%	0%	0%	0%	50%	0%	0%	0%	0%	50%	0%	0%	0%	0%	0%
(10) Providing a reader or interpreter	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(11) Providing supervision or other support	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(12) Employing a support worker to assist a disabled magistrate	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(13) Modifying disciplinary or grievance procedures	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(14) Modifying performance or appraisal arrangements	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(15) Modifying recruitment arrangements for opportunities in the bench	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(16) Training of colleagues, managers and co-workers	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(17) Modify a policy, procedure, practice or criterion	0%	100%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
(18) None or not applicable	38.5%	3.9%	46.7%	7.7%	3.9%	7.7%	3.9%	3.9%	7.7%	7.7%	3.9%	0%	0%	0%	7.7%

¹⁵¹ There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category throughout the survey

¹⁵² There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Multivariate Comparator: Reasonable Adjustment by impairments [OP] Operational Productivity DFIs (Opportunities)



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Summary of analysis

200. In terms of those reasonable adjustments operationally deployed, 59.4% of Respondents indicated that no services had been deployed at all to support them in court. Respondents had a significantly different operational experience depending on whether they considered themselves to be statutory disabled under the Equality Act. Nationally, less than 10 magistrates with disabilities, were in receipt of full operational reasonable adjustments services.

201. The TPAD survey data provides an interesting array of results on the sample range of reasonable adjustments which have been operationalised with reference to the Equality Act Code of Practices:

- Operationally, 23.71% of Respondents had indicated that making adjustments or adaptations to premises had been deployed to a limited extent in the form of 52 discrete services to 31 persons. Further, when the variable EqA(y) was applied the operational productivity reduced to 26.6% and when the variable EqA(n)(u) was applied the operational reduced to 8.6% within that correlated sub-selection. Interestingly, when the variable RA(y) which represents those respondents who have received HMCTS adjustments in full the substrate of the entire TPAD dataset shows that of the 10 persons; 52.63% had received the full making of adjustments or adaptations to premises.
- Operationally, 10.5% of Respondents had indicated a degree of operational deployment of reasonable adjustments acquiring or modifying equipment which amounted to 16 persons nationally. When the variable EqA(y) was applied the operational productivity increased marginally to 10.9% and when the variable EqA(n)(u) was applied the operational reduced to 5.7% within that correlated sub-selection. Interestingly, when the variable RA(y) which represents those respondents who have received HMCTS adjustments in full, the substrate of the entire TPAD dataset shows that of the 3 persons; 15.8% had received the making of adjustments by acquiring or modifying equipment in full.
- 8.21% of Respondents had indicated a degree of operational deployment of allowing a period of disability leave that amounted to 12 persons. Furthermore, when the variable EqA(y) was applied the operational productivity increased marginally to 9.2% and when the variable EqA(n)(u) was applied the operational reduced to 5.7% within that correlated sub-selection. Interestingly, when the variable RA(y) which represents those respondents who have received HMCTS adjustments in full the substrate of the entire TPAD dataset shows that of the 1 person; 2.8% had received the making of adjustments allowing a period of disability leave in full.
- 4.1% of Respondents had indicated a degree of operational deployment of providing information in accessible or alternative formats, altering hours of work or training received which amounted to 12 persons nationally. Furthermore, when the variable EqA(y) was applied the operational productivity increased significantly to 10.9% and when the variable EqA(n)(u) was applied the operational increase to 8.6% within that correlated sub-selection. Interestingly, when the variable RA(y) which represents those respondents who have received HMCTS adjustments in full the substrate of the entire TPAD dataset shows that 0% had received the making of adjustments in full.
- The Respondents reported that there had been minimal progress on the potential for increased productivity and support made with operationally deploying the following of types of adjustments:
 - i. Allocating judicial roles within the bench to another person (disability related) with 0.9% respondents overall recording operationalization of the adjustment. When the variable EqA(y) was applied the operational productivity increased significantly to 5.98% and when the variable EqA(n)(u) was applied the operational increase to 2.7% within those correlated sub-selections. Interestingly, when the variable RA(y) which represents those respondents who have received HMCTS adjustments in full the substrate of the entire TPAD dataset shows that 0% had received the making of adjustments in full.
 - ii. Giving, or arranging for training, or mentoring, with 0.5% respondents overall recording operationalization of the adjustment. When the variable EqA(y) was applied the operational productivity increased significantly to 4.9% and when the variable EqA(n)(u) was applied the operationalization increases dramatically to 8.6% within those correlated sub-selections. Interestingly, when the variable RA(y) which represents those respondents who have received

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HMCTS adjustments in full the substrate of the entire TPAD dataset shows that 0% had received the making of adjustments in full.

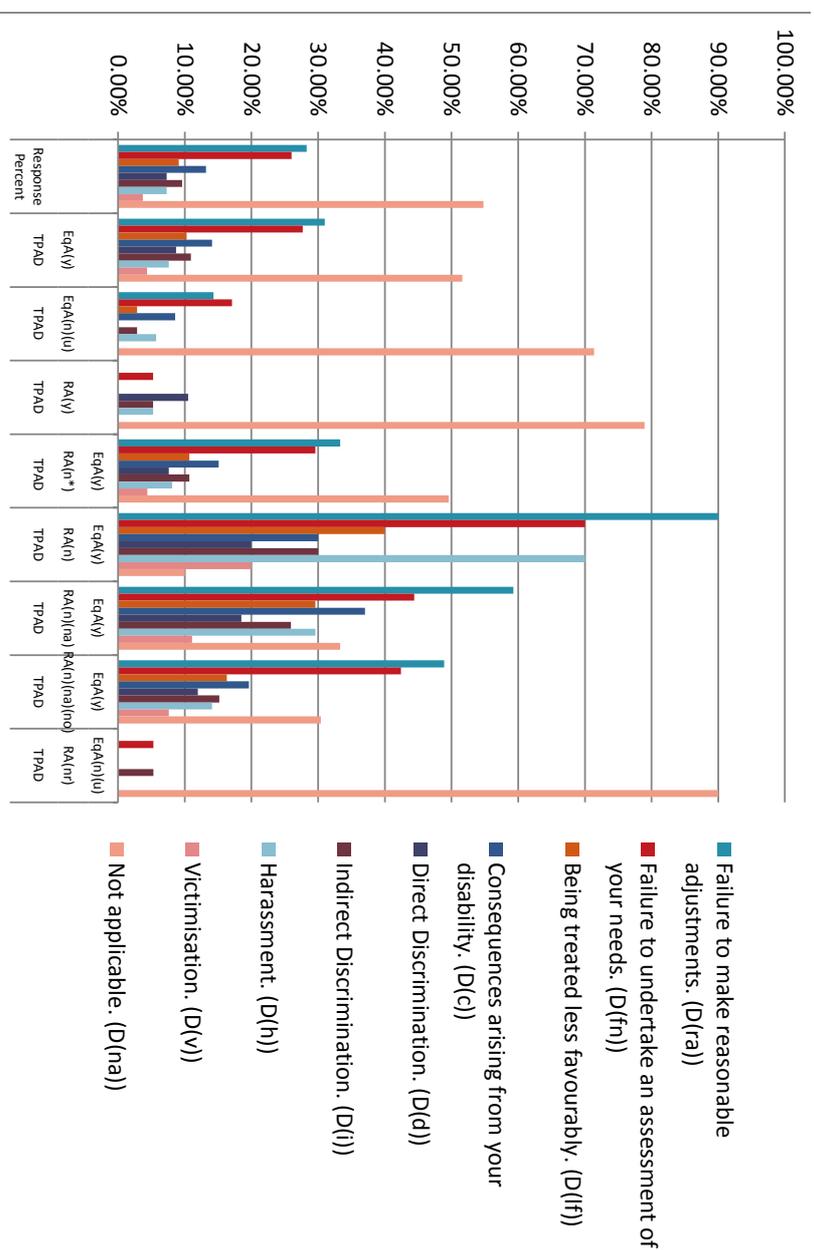
- iii. Providing a reader, interpreter, supervision, support or modifying recruitment arrangements for opportunities on the bench with 0.9% respondents overall recording operationalization of the adjustment. When the variable EqA(y) was applied the operational productivity increased significantly to 2.7%, 1.6, and 7.1% respectively. When the variable EqA(n)(u) was applied the only operational increase to 2.9% for providing a reader or interpreter within those correlated sub-selections was recorded. Interestingly, when the variable RA(y) which represents those respondents who have received HMCTS adjustments in full the substrate of the entire TPAD dataset shows that 0% had received the making of adjustments in full.

- iv. Modifying disciplinary or grievance procedures or performance appraisal arrangements with 0.5% respondents overall recording operationalization of the adjustment. Furthermore, when the variable EqA(y) was applied the operational productivity increased significantly to 4.3% and when the variable EqA(n)(u) was applied the operational increase to 9.3% within those correlated sub-selections. Interestingly, when the variable RA(y) which represents those respondents who have received HMCTS adjustments in full, the substrate of the entire TPAD dataset shows that 0% had received the making of adjustments in full.

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5.10 Question 7: Disability Discrimination in Judicial Office

Figure 10 Disability Discrimination by Liability (Torts)



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Results Data Sheet by Prohibited Unlawful Discrimination (Tort): Multivariate Liabilities

Answer Option: Variable D(variant)	Response Percent	TPAD EqA(Y)	TPAD EqA(n)(u)	TPAD RA(Y)	TPAD RA(n*) EqA(Y)	TPAD RA(n) EqA(Y)	TPAD RA(n)(na) EqA(Y)	TPAD RA(n)(na)(no) EqA(Y)	TPAD RA(n) EqA(n)(u)
(D(ra)) Failure to make reasonable adjustments.	28.3%	31%	14.3%	0%	33.3%	90%	59.3%	48.9%	0%
(D(fn)) Failure to undertake an assessment of your needs.	26.0%	27.7%	17.1%	5.26%	29.6%	70%	44.4%	42.4%	5.3%
(D(f)) Being treated less favourably.	9.1%	10.3%	2.86%	0%	10.7%	40%	29.6%	16.3%	0%
(D(c)) Consequences arising from your disability.	13.2%	14.1%	8.57%	0%	15.1%	30%	37.04%	19.5%	0%
(D(d)) Direct Discrimination.	7.3%	8.7%	0%	10.53%	7.6%	20%	18.5%	11.96%	0%
(D(i)) Indirect Discrimination.	9.6%	10.9%	2.86%	5.26%	10.7%	30%	25.9%	15.2%	5.3%
(D(h)) Harassment.	7.3%	7.6%	5.71%	5.26%	8.1%	70%	29.6%	14.1%	0%
(D(v)) Victimisation.	3.7%	4.35%	0%	0%	4.4%	20%	11.1%	7.6%	0%
(D(na)) Not applicable.	54.8%	51.6%	71.4%	78.95%	49.6%	10%	33.3%	30.43%	90%

Substrates

Variant by Tort	Response Received RR(All)	RR (TPAD EqA(Y))	RR (TPAD EqA(n)(u))	RR (TPAD RA(Y))	RR (TPAD RA(n*) EqA(Y))	RR (TPAD RA(n) EqA(Y))	RR (TPAD RA(n) RA(na) EqA(Y))	RR (TPAD RA(n)(na)(no) EqA(Y))	RR (TPAD RA(n) EqA(n)(u))
(D(ra)) Failure to make reasonable adjustments.	62	57	*	0	50	*	*20	45	0
(D(fn)) Failure to undertake an assessment of your needs.	57	51	*	*	45	*	*	39	*
(D(f)) Being treated less favourably.	20	19	*	0	17	*	*	*20	0
(D(c)) Consequences arising from your disability.	29	26	*	0	23	*	*	*20	0
(D(d)) Direct Discrimination.	20	*20	0	*	12	*	*	*	0
(D(i)) Indirect Discrimination.	21	20	*	*	16	*	*	*20	*
(D(h)) Harassment.	20	*20	*	*	13	*	*20	*	0
(D(v)) Victimisation.	*	8	0	*	7	*	*	*	0
(D(na)) Not applicable.	110	95	*	*	74	*	*20	28	*20

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Prohibited Unlawful Discrimination (Tort) by Impairment Group: Multivariate [all] {TPAD}

Answer Options Dvariant) / Impairment (n) ¹⁵³	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(D(ea)) Failure to make reasonable adjustments.	22.6%	11.3%	50.0%	19.4%	16.1%	12.9%	1.6%	8.1%	4.8%	22.6%	3.2%	0%	6.5%	11.3%	3.2%
(D(fn)) Failure to undertake an assessment of your needs.	21.1%	7.0%	50.9%	26.3%	17.5%	12.3%	0.0%	5.3%	3.5%	31.6%	3.5%	0%	5.3%	12.3%	3.5%
(D(ft)) Being treated less favourably.	20.0%	25.0%	45.0%	20.0%	20.0%	15.0%	0.0%	15.0%	10.0%	20.0%	0.0%	0%	10.0%	10.0%	5.0%
(D(c)) Consequences arising from your disability.	24.1%	13.8%	44.8%	20.7%	13.8%	20.7%	0.0%	10.3%	3.5%	31.0%	10.3%	0%	3.5%	0.0%	6.9%
(D(d)) Direct Discrimination.	12.5%	25.0%	50.0%	12.5%	31.3%	25.0%	0.0%	12.5%	0.0%	31.3%	0.0%	0%	6.3%	0.0%	6.3%
(D(i)) Indirect Discrimination.	14.3%	14.3%	57.1%	14.3%	28.6%	9.5%	0.0%	14.3%	0.0%	33.3%	0.0%	0%	9.5%	4.8%	4.8%
(D(n)) Harassment.	18.8%	18.8%	37.5%	31.3%	18.8%	18.8%	0.0%	12.5%	6.3%	18.8%	0.0%	0%	25.0%	18.8%	6.3%
(D(v)) Victimisation.	25.0%	37.5%	37.5%	12.5%	25.0%	25.0%	0.0%	0.0%	0.0%	25.0%	0.0%	0%	12.5%	12.5%	0.0%
(D(na)) Not applicable.	24.2%	7.5%	43.3%	10.0%	6.7%	1.7%	0.8%	0.8%	0.8%	20.8%	5.0%	0.8%	4.2%	5.8%	8.3%

Substrates

RR(all)	52	20	98	31	26	*	*	*	*	54	*	*	*	*20	*20
Variant	IR(all) Incidences Recorded														
(D(ra)) Failure to make reasonable adjustments.	120														
(D(fn)) Failure to undertake an assessment of your needs.	114														
(D(ft)) Being treated less favourably.	43														
(D(c)) Consequences arising from your disability.	59														
(D(d)) Direct Discrimination.	34														
(D(i)) Indirect Discrimination.	43														
(D(n)) Harassment.	37														
(D(v)) Victimisation.	*20														

¹⁵³ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Prohibited Unlawful Discrimination (Tort) by Impairment Group: Multivariate [EqA(Y)] {TPAD}

Answer Options D(variant) / Impairment (n) ¹⁵⁴	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(D(ra)) Failure to make reasonable adjustments.	21.1%	12.3%	50.9%	19.3%	17.5%	12.3%	1.8%	7.0%	1.8%	24.6%	3.5%	0%	7.0%	12.3%	3.5%
(D(fn)) Failure to undertake an assessment of your needs.	17.7%	7.8%	52.9%	27.5%	17.7%	11.8%	0.0%	3.9%	0.0%	35.3%	3.9%	0%	5.9%	13.7%	3.9%
(D(f)) Being treated less favourably.	15.8%	26.3%	47.4%	21.1%	21.1%	15.8%	0.0%	10.5%	5.3%	21.1%	0.0%	0%	10.5%	10.5%	5.3%
(D(c)) Consequences arising from your disability.	23.1%	15.4%	42.3%	19.2%	15.4%	23.1%	0.0%	11.5%	3.9%	30.8%	7.7%	0%	3.9%	0.0%	7.7%
(D(d)) Direct Discrimination.	12.5%	25.0%	50.0%	12.5%	31.3%	25.0%	0.0%	12.5%	0.0%	31.3%	0.0%	0%	6.3%	0.0%	6.3%
(D(i)) Indirect Discrimination.	10.0%	15.0%	60.0%	15.0%	30.0%	10.0%	0.0%	15.0%	0.0%	35.0%	0.0%	0%	10.0%	5.0%	5.0%
(D(n)) Harassment.	14.3%	21.4%	42.9%	35.7%	21.4%	21.4%	0.0%	7.1%	0.0%	21.4%	0.0%	0%	28.6%	21.4%	0.0%
(D(v)) Victimization.	25.0%	37.5%	37.5%	12.5%	25.0%	25.0%	0.0%	0.0%	0.0%	25.0%	0.0%	0%	12.5%	12.5%	0.0%
(D(na)) Not applicable.	23.2%	7.4%	44.2%	11.6%	7.4%	1.1%	0.0%	0.0%	1.1%	23.2%	6.3%	0%	5.3%	7.4%	7.4%

Substrates

RR(EqA(Y))	40	*20	85	29	24	*	*	*	*	50	*	0	*	*20	*
RR(EqA(Y))	40	*20	85	29	24	*	*	*	*	50	*	0	*	*20	*

Variant	IR(EqA(Y)) Incidences Recorded
(D(ra)) Failure to make reasonable adjustments.	111
(D(fn)) Failure to undertake an assessment of your needs.	103
(D(f)) Being treated less favourably.	40
(D(c)) Consequences arising from your disability.	53
(D(d)) Direct Discrimination.	34
(D(i)) Indirect Discrimination.	42
(D(n)) Harassment.	33
(D(v)) Victimization.	*20

¹⁵⁴ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Prohibited Unlawful Discrimination (Tort) by Impairment Group: Multivariate [EqA(Y)RA(n)RA(na) {TPAD}]

Answer Options D(variant) / Impairment (n) ¹⁵⁵	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(D(a)) Failure to make reasonable adjustments.	12.5%	12.5%	56.3%	37.5%	25.0%	18.8%	0.0%	6.3%	0.0%	43.8%	0.0%	0%	12.5%	6.3%	0.0%
(D(b)) Failure to undertake an assessment of your needs.	16.7%	16.7%	50.0%	33.3%	16.7%	25.0%	0.0%	0.0%	0.0%	50.0%	0.0%	0%	16.7%	8.3%	0.0%
(D(f)) Being treated less favourably.	25.0%	25.0%	37.5%	37.5%	25.0%	37.5%	0.0%	12.5%	0.0%	37.5%	0.0%	0%	12.5%	0.0%	0.0%
(D(c)) Consequences arising from your disability.	30.0%	20.0%	40.0%	20.0%	20.0%	20.0%	0.0%	10.0%	0.0%	50.0%	0.0%	0%	10.0%	0.0%	0.0%
(D(d)) Direct Discrimination.	20.0%	20.0%	60.0%	40.0%	40.0%	40.0%	0.0%	20.0%	0.0%	40.0%	0.0%	0%	20.0%	0.0%	0.0%
(D(i)) Indirect Discrimination.	14.3%	0.0%	71.4%	14.3%	14.3%	14.3%	0.0%	14.3%	0.0%	28.6%	0.0%	0%	14.3%	0.0%	0.0%
(D(h)) Harassment.	25.0%	25.0%	50.0%	62.5%	37.5%	25.0%	0.0%	12.5%	0.0%	37.5%	0.0%	0%	25.0%	12.5%	0.0%
(D(v)) Victimization.	66.7%	66.7%	33.3%	33.3%	33.3%	33.3%	0.0%	0.0%	0.0%	33.3%	0.0%	0%	33.3%	0.0%	0.0%
(D(na)) Not applicable.	22.2%	11.1%	66.7%	22.2%	0.0%	0.0%	0.0%	0.0%	0.0%	33.3%	11.1%	0%	0.0%	0.0%	0.0%

Substrates

RR(EqA(Y)RA(n)RA(na))	5	3	16	8	4	3	0	1	0	11	1	0	2	1	0
RR(EqA(Y)RA(n)RA(na))	5	3	16	8	4	3	0	1	0	11	1	0	2	1	0

Variant	IR(EqA(Y)RA(n)RA(na)) Incidences Recorded
(D(a)) Failure to make reasonable adjustments.	37
(D(b)) Failure to undertake an assessment of your needs.	28
(D(f)) Being treated less favourably.	20
(D(c)) Consequences arising from your disability.	22
(D(d)) Direct Discrimination.	15
(D(i)) Indirect Discrimination.	13
(D(h)) Harassment.	25
(D(v)) Victimization.	10

¹⁵⁵ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Prohibited Unlawful Discrimination (Tort) by Impairment Group: Multivariate [EqA(Y)RA(n)RA(na)RA(no) {TPAD}]

Answer Options D(variant) / Impairment (n) ¹⁵⁶	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
(D(a)) Failure to make reasonable adjustments.	15.6%	8.9%	53.3%	17.8%	20.0%	13.3%	2.2%	6.7%	0.0%	26.7%	2.2%	0%	8.9%	15.6%	2.2%
(D(b)) Failure to undertake an assessment of your needs.	15.4%	7.7%	51.3%	28.2%	20.5%	12.8%	0.0%	2.6%	0.0%	35.9%	2.6%	0%	7.7%	18.0%	2.6%
(D(f)) Being treated less favourably.	13.3%	20.0%	53.3%	20.0%	26.7%	20.0%	0.0%	13.3%	0.0%	20.0%	0.0%	0%	13.3%	13.3%	6.7%
(D(c)) Consequences arising from your disability.	27.8%	11.1%	38.9%	11.1%	16.7%	22.2%	0.0%	11.1%	0.0%	33.3%	5.6%	0%	5.6%	0.0%	5.6%
(D(d)) Direct Discrimination.	9.1%	18.2%	63.6%	18.2%	36.4%	27.3%	0.0%	18.2%	0.0%	27.3%	0.0%	0%	9.1%	0.0%	0.0%
(D(i)) Indirect Discrimination.	14.3%	14.3%	71.4%	14.3%	28.6%	7.1%	0.0%	7.1%	0.0%	28.6%	0.0%	0%	14.3%	7.1%	0.0%
(D(h)) Harassment.	15.4%	15.4%	46.2%	38.5%	23.1%	23.1%	0.0%	7.7%	0.0%	23.1%	0.0%	0%	30.8%	23.1%	0.0%
(D(v)) Victimization.	28.6%	28.6%	42.9%	14.3%	28.6%	28.6%	0.0%	0.0%	0.0%	28.6%	0.0%	0%	14.3%	14.3%	0.0%
(D(na)) Not applicable.	25.0%	7.1%	50.0%	10.7%	3.6%	0.0%	0.0%	0.0%	0.0%	42.9%	7.1%	0%	7.1%	3.6%	0.0%

Substrates

RR(EqA(Y)RA(n)RA(na)RA(no))	18	7	48	16	13	8	1	4	0	33	4	0	6	9	2
RR(EqA(Y)RA(n)RA(na)RA(no))	18	7	48	16	13	8	1	4	0	33	4	0	6	9	2

Variant	IR(EqA(Y)RA(n)RA(na)RA(no)) Incidences Recorded
(D(a)) Failure to make reasonable adjustments.	87
(D(b)) Failure to undertake an assessment of your needs.	80
(D(f)) Being treated less favourably.	33
(D(c)) Consequences arising from your disability.	34
(D(d)) Direct Discrimination.	25
(D(i)) Indirect Discrimination.	29
(D(h)) Harassment.	32
(D(v)) Victimization.	16

¹⁵⁶ There are 15 variants of the impairment variable denoted by Impairment (n) where n is the number listed in the impairment table under Question Q3 throughout the survey

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Prohibited Unlawful Discrimination (Tort) by Impairment Group: Multivariate [EqA(n)EqA(u)RA(nr)] {TPAD}

Generated 2 Responses Received (RR).

Substrates

Total I(R)EqA(n)EqA(u)RA(nr)= 3

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category (EP): Multivariate [all] {TPAD}

Answer Option D(variant) / Reasonable Adjustment Category EP(n) ¹⁵⁷	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D(ea)) Failure to make reasonable adjustments.	75.8%	14.5%	12.9%	17.7%	16.1%	19.4%	9.7%	12.9%	53.2%	6.5%	3.2%	6.5%	9.7%	16.1%	17.7%	41.9%	21.0%	1.6%
(D(fn)) Failure to undertake an assessment of your needs.	73.7%	14.0%	8.8%	15.8%	14.0%	19.3%	12.3%	10.5%	45.6%	5.3%	3.5%	7.0%	10.5%	14.0%	12.3%	35.1%	15.8%	7.0%
(D(f)) Being treated less favourably.	65.0%	25.0%	25.0%	25.0%	15.0%	40.0%	20.0%	25.0%	55.0%	25.0%	15.0%	15.0%	20.0%	45.0%	35.0%	60.0%	25.0%	0.0%
(D(c)) Consequences arising from your disability.	65.5%	10.3%	13.8%	17.2%	20.7%	20.7%	10.3%	13.8%	44.8%	6.9%	6.9%	6.9%	10.3%	20.7%	17.2%	44.8%	20.7%	3.5%
(D(d)) Direct Discrimination.	81.3%	31.3%	18.8%	25.0%	18.8%	31.3%	25.0%	25.0%	68.8%	18.8%	12.5%	6.3%	6.3%	25.0%	25.0%	56.3%	43.8%	6.3%
(D(i)) Indirect Discrimination.	61.9%	19.1%	14.3%	19.1%	19.1%	28.6%	14.3%	28.6%	61.9%	9.5%	9.5%	9.5%	14.3%	23.8%	28.6%	42.9%	38.1%	14.3%
(D(h)) Harassment.	75.0%	31.3%	31.3%	50.0%	31.3%	50.0%	25.0%	18.8%	68.8%	25.0%	12.5%	18.8%	37.5%	56.3%	37.5%	68.8%	25.0%	0.0%
(D(v)) Victimisation.	75.0%	37.5%	37.5%	37.5%	25.0%	75.0%	25.0%	37.5%	50.0%	37.5%	25.0%	25.0%	50.0%	62.5%	37.5%	62.5%	25.0%	12.5%
(D(na)) Not applicable.	25.8%	6.7%	1.7%	3.3%	5.0%	0.8%	10.8%	0.8%	20.8%	0.8%	0.0%	1.7%	0.0%	1.7%	0.8%	0.8%	2.5%	44.2%

¹⁵⁷ There are 18 variables for EP denoted as EP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3,4,5 or 6) throughout the survey

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Substrates

EP Variant	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(all)	96	22	12	19	23	17	22	12	66	6	3	7	8	17	13	32	19	61

EP Variant	IR(all) Incidence Recorded
(D)(ra) Failure to make reasonable adjustments.	233
(D)(fn) Failure to undertake an assessment of your needs.	187
(D)(ff) Being treated less favourably.	107
(D)(c) Consequences arising from your disability.	103
(D)(d) Direct Discrimination.	84
(D)(i) Indirect Discrimination.	96
(D)(n) Harassment.	106
(D)(v) Victimisation.	59

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category (OP): Multivariate [all] (TPAD)

Answer Option D(variant)/Reasonable Adjustment Category OP(n) ¹⁵⁸	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D)(ra) Failure to make reasonable adjustments.	21.0%	3.2%	0.0%	3.2%	4.8%	1.6%	6.5%	0.0%	12.9%	1.6%	0.0%	1.6%	0.0%	1.6%	3.2%	3.2%	6.5%	58.1%
(D)(fn) Failure to undertake an assessment of your needs.	22.8%	1.8%	0.0%	3.5%	3.5%	1.8%	5.3%	0.0%	12.3%	0.0%	0.0%	1.8%	0.0%	1.8%	3.5%	3.5%	5.3%	63.2%
(D)(ff) Being treated less favourably.	30.0%	10.0%	5.0%	10.0%	0.0%	10.0%	0.0%	0.0%	15.0%	5.0%	0.0%	0.0%	0.0%	5.0%	5.0%	0.0%	10.0%	40.0%
(D)(c) Consequences arising from your disability.	24.1%	3.5%	0.0%	3.5%	3.5%	0.0%	6.9%	0.0%	13.8%	3.5%	0.0%	3.5%	3.5%	0.0%	0.0%	0.0%	13.8%	58.6%
(D)(d) Direct Discrimination.	25.0%	18.8%	6.3%	6.3%	12.5%	6.3%	12.5%	0.0%	12.5%	6.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	12.5%	37.5%
(D)(i) Indirect Discrimination.	23.8%	14.3%	4.8%	9.5%	4.8%	9.5%	4.8%	0.0%	28.6%	4.8%	0.0%	0.0%	0.0%	0.0%	4.8%	0.0%	4.8%	47.6%
(D)(n) Harassment.	25.0%	6.3%	6.3%	6.3%	0.0%	6.3%	0.0%	0.0%	12.5%	0.0%	0.0%	0.0%	0.0%	6.3%	0.0%	0.0%	12.5%	43.8%
(D)(v) Victimisation.	12.5%	12.5%	12.5%	12.5%	0.0%	12.5%	0.0%	0.0%	12.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	12.5%	62.5%
(D)(na) Not applicable.	22.5%	4.2%	0.8%	4.2%	5.0%	1.7%	10.8%	0.8%	10.8%	0.0%	1.7%	0.0%	0.0%	0.0%	0.0%	1.7%	2.5%	57.5%

¹⁵⁸ There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3, 4, 5 or 6) throughout the survey

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Substrates

OP Variant	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(all)	52	9	2	8	9	4	18	1	22	2	2	2	1	1	2	4	8	130

OP Variant	IR(all) Incidences Recorded
(D)(a) Failure to make reasonable adjustments.	81
(D)(fn) Failure to undertake an assessment of your needs.	74
(D)(f) Being treated less favourably.	30
(D)(c) Consequences arising from your disability.	40
(D)(d) Direct Discrimination.	26
(D)(i) Indirect Discrimination.	35
(D)(n) Harassment.	20
(D)(v) Victimisation.	12

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate EP [EqA(y)] (TPAD)

Answer Options D(ariant)/Reasonable Adjustment Category EP(n) ¹⁵⁹	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D)(a) Failure to make reasonable adjustments.	77.2%	12.3%	14.0%	19.3%	17.5%	19.3%	10.5%	10.5%	50.9%	5.3%	3.5%	7.0%	10.5%	17.5%	19.3%	40.4%	21.1%	1.8%
(D)(fn) Failure to undertake an assessment of your needs.	76.5%	11.8%	9.8%	17.7%	15.7%	19.6%	13.7%	7.8%	41.2%	3.9%	3.9%	7.8%	11.8%	15.7%	13.7%	33.3%	15.7%	7.8%
(D)(f) Being treated less favourably.	68.4%	21.1%	26.3%	26.3%	15.8%	42.1%	21.1%	26.3%	52.6%	21.1%	15.8%	15.8%	21.1%	47.4%	36.8%	57.9%	26.3%	0.0%
(D)(c) Consequences arising from your disability.	69.2%	11.5%	15.4%	19.2%	19.2%	23.1%	11.5%	11.5%	42.3%	7.7%	7.7%	7.7%	11.5%	23.1%	19.2%	42.3%	23.1%	3.9%
(D)(d) Direct Discrimination.	81.3%	31.3%	18.8%	25.0%	18.8%	31.3%	25.0%	25.0%	68.8%	18.8%	12.5%	6.3%	6.3%	25.0%	25.0%	56.3%	43.8%	6.3%
(D)(i) Indirect Discrimination.	65.0%	20.0%	15.0%	20.0%	20.0%	30.0%	15.0%	25.0%	65.0%	10.0%	10.0%	10.0%	15.0%	25.0%	30.0%	45.0%	40.0%	15.0%
(D)(n) Harassment.	78.6%	28.6%	35.7%	57.1%	35.7%	57.1%	28.6%	21.4%	71.4%	21.4%	14.3%	21.4%	42.9%	64.3%	42.9%	71.4%	28.6%	0.0%
(D)(v) Victimisation.	75.0%	37.5%	37.5%	37.5%	25.0%	75.0%	25.0%	37.5%	50.0%	37.5%	25.0%	25.0%	50.0%	62.5%	37.5%	62.5%	25.0%	12.5%
(D)(na) Not applicable.	31.6%	6.3%	1.1%	4.2%	4.2%	1.1%	12.6%	1.1%	22.1%	1.1%	0.0%	2.1%	0.0%	2.1%	1.1%	1.1%	2.1%	42.1%

¹⁵⁹ There are 18 variables for EP denoted as EP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3,4,5 or 6) throughout the survey

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Substrates

EP Variant	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(EqA(Y))	91	18	11	19	20	16	21	9	56	5	3	7	8	17	13	28	17	48

EP Variant	IR(EqA(Y)) Incidences Recorded
(D(a)) Failure to make reasonable adjustments.	206
(D(fn)) Failure to undertake an assessment of your needs.	169
(D(lf)) Being treated less favourably.	103
(D(c)) Consequences arising from your disability.	96
(D(d)) Direct Discrimination.	84
(D(i)) Indirect Discrimination.	95
(D(n)) Harassment.	101
(D(v)) Victimisation.	12

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate OP [EqA(Y)] {TPAD}

Answer Option D(variant)/Reasonable Adjustment Category OP(n) ¹⁶⁰	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D(a)) Failure to make reasonable adjustments.	22.8%	3.5%	0.0%	3.5%	5.3%	1.8%	7.0%	0.0%	14.0%	1.8%	0.0%	1.8%	0.0%	1.8%	3.5%	3.5%	7.0%	54.4%
(D(fn)) Failure to undertake an assessment of your needs.	23.5%	2.0%	0.0%	3.9%	3.9%	2.0%	5.9%	0.0%	11.8%	0.0%	0.0%	2.0%	0.0%	2.0%	3.9%	3.9%	5.9%	60.8%
(D(lf)) Being treated less favourably.	31.6%	10.5%	5.3%	10.5%	0.0%	10.5%	0.0%	0.0%	15.8%	5.3%	0.0%	0.0%	0.0%	5.3%	5.3%	0.0%	10.5%	36.8%
(D(c)) Consequences arising from your disability.	26.9%	3.9%	0.0%	3.9%	3.9%	0.0%	3.9%	0.0%	15.4%	3.9%	0.0%	3.9%	3.9%	0.0%	0.0%	0.0%	15.4%	53.9%
(D(d)) Direct Discrimination.	25.0%	18.8%	6.3%	6.3%	12.5%	6.3%	12.5%	0.0%	12.5%	6.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	12.5%	37.5%
(D(i)) Indirect Discrimination.	25.0%	15.0%	5.0%	10.0%	5.0%	10.0%	5.0%	0.0%	30.0%	5.0%	0.0%	0.0%	0.0%	0.0%	5.0%	0.0%	5.0%	45.0%
(D(n)) Harassment.	21.4%	7.1%	7.1%	7.1%	0.0%	7.1%	0.0%	0.0%	14.3%	0.0%	0.0%	0.0%	0.0%	7.1%	0.0%	0.0%	14.3%	42.9%
(D(v)) Victimisation.	12.5%	12.5%	12.5%	12.5%	0.0%	12.5%	0.0%	0.0%	12.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	12.5%	62.5%
(D(na)) Not applicable.	27.4%	5.3%	0.0%	5.3%	5.3%	2.1%	13.7%	0.0%	12.6%	0.0%	2.1%	0.0%	0.0%	0.0%	0.0%	2.1%	2.1%	53.7%

¹⁶⁰ There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3, 4, 5 or 6) throughout the survey

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Substrates

OP Variant	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(EqA(Y))	49	9	1	8	8	4	17	0	20	2	2	2	1	1	2	4	7	104

OP Variant	IR(all) Incidents Recorded
(D)(ra) Failure to make reasonable adjustments.	76
(D)(rn) Failure to undertake an assessment of your needs.	67
(D)(rf) Being treated less favourably.	29
(D)(c) Consequences arising from your disability.	36
(D)(d) Direct Discrimination.	26
(D)(i) Indirect Discrimination.	34
(D)(n) Harassment.	18
(D)(v) Victimisation.	12

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate EP [EqA(Y)RA(n)]RA(na) {TPAD}

Answer Options D(variant)/Reasonable Adjustment Category ER(n) ¹⁶¹	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D)(ra) Failure to make reasonable adjustments.	81.3%	18.8%	12.5%	37.5%	12.5%	37.5%	6.3%	12.5%	87.5%	12.5%	12.5%	12.5%	18.8%	18.8%	31.3%	62.5%	25.0%	0.0%
(D)(rn) Failure to undertake an assessment of your needs.	83.3%	25.0%	16.7%	33.3%	8.3%	50.0%	8.3%	16.7%	91.7%	16.7%	16.7%	16.7%	25.0%	25.0%	41.7%	83.3%	25.0%	0.0%
(D)(rf) Being treated less favourably.	75.0%	25.0%	12.5%	37.5%	12.5%	62.5%	12.5%	25.0%	87.5%	25.0%	25.0%	12.5%	37.5%	37.5%	37.5%	87.5%	37.5%	0.0%
(D)(c) Consequences arising from your disability.	80.0%	20.0%	10.0%	20.0%	0.0%	40.0%	10.0%	20.0%	70.0%	20.0%	20.0%	10.0%	20.0%	20.0%	30.0%	60.0%	30.0%	0.0%
(D)(d) Direct Discrimination.	80.0%	20.0%	20.0%	40.0%	0.0%	60.0%	20.0%	20.0%	100%	20.0%	20.0%	0.0%	20.0%	20.0%	40.0%	80.0%	60.0%	0.0%
(D)(i) Indirect Discrimination.	71.4%	0.0%	14.3%	28.6%	0.0%	28.6%	0.0%	14.3%	85.7%	0.0%	14.3%	0.0%	14.3%	14.3%	28.6%	57.1%	42.9%	0.0%
(D)(n) Harassment.	100%	37.5%	12.5%	62.5%	12.5%	62.5%	12.5%	12.5%	100%	25.0%	12.5%	12.5%	37.5%	37.5%	37.5%	75.0%	25.0%	0.0%
(D)(v) Victimisation.	100%	66.7%	0.0%	33.3%	0.0%	100%	33.3%	33.3%	100%	66.7%	33.3%	33.3%	66.7%	66.7%	66.7%	100%	33.3%	0.0%
(D)(na) Not applicable.	55.6%	22.2%	11.1%	0.0%	11.1%	11.1%	22.2%	0.0%	33.3%	0.0%	0.0%	11.1%	0.0%	11.1%	0.0%	0.0%	11.1%	0.0%

¹⁶¹ There are 18 variables for EP denoted as ER(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3,4,5 or 6) throughout the survey

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Substrates

EP Variant	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(EqA(y)RA(n)(na))	20	5	3	6	3	7	3	2	18	2	2	3	3	4	5	10	5	0

EP Variant	IR(all) Incidents Recorded
(D)(ra) Failure to make reasonable adjustments.	80
(D)(rn) Failure to undertake an assessment of your needs.	70
(D)(rf) Being treated less favourably.	52
(D)(c) Consequences arising from your disability.	48
(D)(d) Direct Discrimination.	31
(D)(i) Indirect Discrimination.	29
(D)(n) Harassment.	54
(D)(v) Victimisation.	28

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate OP [EqA(y)RA(n)RA(na)] {TPAD}

Answer Option D(variant)/Reasonable Adjustment Category OP(n) ¹⁶²	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D)(ra) Failure to make reasonable adjustments.	31.3%	0.0%	0.0%	6.3%	0.0%	0.0%	0.0%	0.0%	18.8%	0.0%	0.0%	6.3%	0.0%	0.0%	6.3%	6.3%	18.8%	50.0%
(D)(rn) Failure to undertake an assessment of your needs.	25.0%	0.0%	0.0%	8.3%	0.0%	0.0%	0.0%	0.0%	25.0%	0.0%	0.0%	8.3%	0.0%	0.0%	8.3%	8.3%	16.7%	58.3%
(D)(rf) Being treated less favourably.	25.0%	0.0%	0.0%	12.5%	0.0%	0.0%	0.0%	0.0%	25.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	25.0%	37.5%
(D)(c) Consequences arising from your disability.	30.0%	0.0%	0.0%	10.0%	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	20.0%	40.0%
(D)(d) Direct Discrimination.	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	40.0%	40.0%
(D)(i) Indirect Discrimination.	14.3%	0.0%	0.0%	14.3%	0.0%	0.0%	0.0%	0.0%	28.6%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	14.3%	57.1%
(D)(n) Harassment.	12.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	12.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	25.0%	50.0%
(D)(v) Victimisation.	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	33.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	33.3%	33.3%
(D(na)) Not applicable.	55.6%	11.1%	0.0%	22.2%	22.2%	0.0%	33.3%	0.0%	44.4%	0.0%	11.1%	0.0%	0.0%	0.0%	0.0%	0.0%	11.1%	0.0%

¹⁶² There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3,4,5 or 6) throughout the survey

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Substrates

OP Variant	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(EqA(Y)RA(n)(na))	11	1	0	3	2	0	3	0	7	0	1	1	0	0	1	1	4	9

OP Variant	IR(all) Incidence Recorded
(D)(ra) Failure to make reasonable adjustments.	23
(D)(fn) Failure to undertake an assessment of your needs.	19
(D)(ff) Being treated less favourably.	10
(D)(c) Consequences arising from your disability.	12
(D)(d) Direct Discrimination.	5
(D)(i) Indirect Discrimination.	9
(D)(n) Harassment.	8
(D)(v) Victimisation.	3

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate EP [EqA(Y)RA(n)RA(no) {TPAD}]

Answer Options D(variant)/Reasonable Adjustment Category ER(n) ¹⁶³	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D)(ra) Failure to make reasonable adjustments.	80.0%	8.9%	13.3%	22.2%	13.3%	17.8%	8.9%	11.1%	53.3%	6.7%	4.4%	6.7%	11.1%	15.6%	20.0%	42.2%	22.2%	2.2%
(D)(fn) Failure to undertake an assessment of your needs.	79.5%	10.3%	10.3%	20.5%	12.8%	23.1%	12.8%	7.7%	48.7%	5.1%	5.1%	7.7%	12.8%	12.8%	15.4%	38.5%	15.4%	5.1%
(D)(ff) Being treated less favourably.	73.3%	20.0%	20.0%	26.7%	20.0%	40.0%	20.0%	26.7%	60.0%	20.0%	13.3%	13.3%	26.7%	40.0%	33.3%	60.0%	26.7%	0.0%
(D)(c) Consequences arising from your disability.	66.7%	11.1%	11.1%	22.2%	11.1%	22.2%	5.6%	11.1%	50.0%	11.1%	11.1%	5.6%	11.1%	11.1%	16.7%	38.9%	22.2%	5.6%
(D)(d) Direct Discrimination.	81.8%	18.2%	18.2%	27.3%	9.1%	27.3%	18.2%	18.2%	72.7%	18.2%	9.1%	0.0%	9.1%	18.2%	27.3%	54.6%	45.5%	9.1%
(D)(i) Indirect Discrimination.	71.4%	14.3%	14.3%	21.4%	0.0%	21.4%	0.0%	21.4%	71.4%	7.1%	7.1%	0.0%	14.3%	21.4%	28.6%	42.9%	42.9%	14.3%
(D)(n) Harassment.	76.9%	23.1%	30.8%	53.9%	38.5%	53.9%	23.1%	15.4%	69.2%	15.4%	7.7%	15.4%	46.2%	61.5%	38.5%	69.2%	23.1%	0.0%
(D)(v) Victimisation.	71.4%	28.6%	28.6%	28.6%	28.6%	71.4%	14.3%	28.6%	42.9%	28.6%	14.3%	14.3%	57.1%	57.1%	28.6%	57.1%	14.3%	14.3%
(D(na)) Not applicable.	46.4%	10.7%	3.6%	3.6%	3.6%	3.6%	10.7%	0.0%	42.9%	0.0%	0.0%	3.6%	0.0%	3.6%	0.0%	3.6%	7.1%	10.7%

¹⁶³ There are 18 variables for EP denoted as EP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3,4,5 or 6) throughout the survey

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Substrates

EP Variant	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(EqA(y)RA(n)RA(no))	61	9	8	14	11	11	9	6	40	3	2	4	7	10	9	21	14	8

EP Variant	IR(all) Incidents Recorded
(D)(ra) Failure to make reasonable adjustments.	162
(D)(fn) Failure to undertake an assessment of your needs.	135
(D)(ff) Being treated less favourably.	81
(D)(c) Consequences arising from your disability.	62
(D)(d) Direct Discrimination.	53
(D)(i) Indirect Discrimination.	58
(D)(n) Harassment.	86
(D)(v) Victimisation.	44

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate OP {EqA(y)RA(n)RA(no)} {TPAD}

Answer Option D(variant)/Reasonable Adjustment Category OP(n) ¹⁶⁴	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
(D)(ra) Failure to make reasonable adjustments.	26.7%	2.2%	0.0%	2.2%	2.2%	2.2%	6.7%	0.0%	11.1%	2.2%	0.0%	2.2%	0.0%	2.2%	4.4%	4.4%	6.7%	53.3%
(D)(fn) Failure to undertake an assessment of your needs.	23.1%	0.0%	0.0%	2.6%	2.6%	2.6%	5.1%	0.0%	10.3%	0.0%	0.0%	2.6%	0.0%	2.6%	5.1%	5.1%	5.1%	64.1%
(D)(ff) Being treated less favourably.	33.3%	6.7%	0.0%	6.7%	0.0%	6.7%	0.0%	0.0%	20.0%	6.7%	0.0%	0.0%	0.0%	6.7%	6.7%	0.0%	13.3%	26.7%
(D)(c) Consequences arising from your disability.	27.8%	0.0%	0.0%	5.6%	0.0%	0.0%	0.0%	0.0%	11.1%	5.6%	0.0%	5.6%	5.6%	0.0%	0.0%	0.0%	16.7%	55.6%
(D)(d) Direct Discrimination.	18.2%	9.1%	0.0%	0.0%	9.1%	0.0%	9.1%	0.0%	9.1%	9.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	18.2%	36.4%
(D)(i) Indirect Discrimination.	14.3%	7.1%	0.0%	7.1%	0.0%	7.1%	0.0%	0.0%	28.6%	7.1%	0.0%	0.0%	0.0%	0.0%	7.1%	0.0%	7.1%	50.0%
(D)(n) Harassment.	15.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	15.4%	0.0%	0.0%	0.0%	0.0%	7.7%	0.0%	0.0%	15.4%	46.2%
(D)(v) Victimisation.	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	14.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	14.3%	71.4%
(D)(na) Not applicable.	35.7%	10.7%	0.0%	10.7%	7.1%	0.0%	17.9%	0.0%	21.4%	0.0%	3.6%	0.0%	0.0%	0.0%	0.0%	3.6%	3.6%	32.1%

¹⁶⁴ There are 18 variables for OP denoted as OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3, 4, 5 or 6) throughout the survey

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Substrates

OP Variant Correlated sub-selections	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total RR(EqA(Y)RA(n)RA(no))	27	4	0	4	3	1	8	0	11	2	1	2	1	1	2	3	5	47

OP Variant	IR(all) Incidents Recorded
(D(ra)) Failure to make reasonable adjustments.	59
(D(fr)) Failure to undertake an assessment of your needs.	51
(D(f)) Being treated less favourably.	21
(D(c)) Consequences arising from your disability.	24
(D(d)) Direct Discrimination.	14
(D(i)) Indirect Discrimination.	20
(D(n)) Harassment.	13
(D(v)) Victimisation.	7

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Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate EP [EqA(n)(u)RA(nr)] {TPAD}

Generated 2 responses received (RR).

Substrates

Generated 2 IR(incidents).

Prohibited Unlawful Discrimination (Tort) by Reasonable Adjustment Category: Multivariate OP [EqA(n)(u)RA(nr)] {TPAD}

Generated 2 responses received (RR).

Substrates

Generated 3 IR(incidents).

Data Protection Act 1998

*Denotes less than 20 responses recorded and not presented to prevent identification

*20 Denotes slightly less than 20 responses recorded rounded to 20 to prevent identification

The RR *denotes records rounded down or up.

Any other detriment arising from your disability

202. Respondents made the following comments under the category 'other':

1. "Colleagues don't understand why I cannot write down things in long hand and rely on memory but I am often belittled as being thick or dismissed because I don't have in depth detailed notes."
2. "Regularly being asked if I mind saying what's wrong with me or how much pain I am in etc. beings told a chair could decide whether I was fit to sit!"
3. "Embarrassment."
4. "My disability is not visible to others."
5. "From another magistrate. The matter was dealt with sensitively."
6. "Prejudice by HMCTS against prescribed use of a specific medication."
7. "Assumption that not capable because of perceived restrictions."
8. "Unreasonable delay in assessment leading to inability to serve in neighbouring courts."

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9. "No loop system as too costly!!"
10. "No."
11. "Lack of awareness."
12. "None."
13. "Still no dedicated parking bay for disabled person despite request."
14. "It is adjustments to the building that are not adequate."
15. "Fuss made when asking if disabled parking was available, I am a blue badge holder, when visiting another court for essential training."
16. "Inability to apply for chairmanship training - speech disability."
17. "I suffer depression. There is stigma and poor awareness of how this affects an individual. I hear people refer to depression as nutter, loons, crazies etc. every week in court. Why do we not have compulsory diversity training like the paid judiciary?"
18. "One or two comments which were meant to be funny!"
19. "I have given up requesting repairs / maintenance - very frustrated."
20. "In the appraisal where the extent of my hearing problem was emphasized, I felt the appraiser played down my difficulties of hearing properly the proceedings. My views on others poor speaking skill were discounted ... since then colleagues have 'consulted' me about their difficulties."
21. "Ease of access/ new lift now broken."
22. "Unable to participate in offsite visits."
23. "No this question is not relevant."
24. "As I don't fuss about my hearing loss, N/A but your survey requires an answer!"

Summary of analysis

203. The management and equality behavioural drivers for disability equality are referenced in the range of judiciary policy documents discussed earlier. Lady Justice Hallett reminded the Judiciary through the changes to the Equal Treatment Bench Book that with the introduction of the rationalisation of judicial equality policy following the enactment of the Equality Act 2010, and the subsequent implementation of the s149 of the Equality Act 2010 referred to Public Sector Equality Act, that the Judiciary are not afforded exemption under the Act save as to making judicial determinations of cases.

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204. The purpose of this survey question was to record and ascertain incidences of magistrates with disabilities who believed they had experienced disability discrimination in the conduct of their office.

205. The TPAD survey data provides an interesting array of results on the range of potential disability discrimination liabilities in the course of judicial conduct with reference to the Equality Act Code of Practices. The following observations are made:

- In a working sample of 252 magistrates, a range of 229 - 436 incidences of unlawful disability discrimination were recorded dependant on the identified variables. No specific personal information was collected about the discrimination. The participants selected the type of discrimination either as referenced in the Equality Act Code of Practices, The Equality Act 2010, the Equality and Diversity Policy for the Judiciary of England and Wales and the Code on Judicial Conduct.
 - i. 28.3% of participants had experienced a failure to make reasonable adjustments (D(ra)) increasing to 31% when EqA(y) variant was applied within those correlated sub-selections and substantially reducing to 14.3% when the EqA(n)(u) variant was applied. When the EqA(y) variant was applied and the status of the current reasonable adjustments was either none made or incomplete ((RA(n)RA(na)), the incidence of discrimination increased to 33.3% within that correlated sub-selection. When the participants who had recorded that no reasonable adjustments ((RA(n)) were made and the EqA(y) variant was applied, the degree of disability discrimination perception experiencing a failure to make reasonable adjustments increased dramatically to 90% within that correlated sub-selection; reducing in discrimination effect to 59.3% when the variant RA(na) representing not all adjustments had been made. Similarly, there was a reduction in the discrimination effect to 48.9% when those in the same substrate who stated that no assessment of their needs was offered represented by the variant RA(no). Interestingly, when the variants representing those who did not know or identify with potentially being a disabled person under the Equality Act 2010 ((EqA(n)(u)) variable and also did not request an assessment of their needs RA(nr) were applied, there was a 0% incidences of discrimination with a failure to make reasonable adjustments recorded.
 - ii. 26.3 % of participants had experienced discrimination in the form of failure to undertake an assessment of their needs; the discrimination incidences increasing marginally when the EqA(y) variable was applied and the incidences decreased substantially to 17.1% when the EqA(n)(u) was applied, and reduced further when the RA(y) variable was applied. Interestingly, when the RA(n*) variants and Eq(y) variable were applied the incidences of discrimination reported increased to 90%. Conversely, when the RA(n)(na) concatenated variants and the variable Eq(y) were applied the incidences of discrimination reduced to 59.3% within the subset; similarly reducing to reducing to 48.9% when the RA variable was concatenated to include the variant RA(no) within the subset. It was particularly notable that when the variants RA(nr) and EqA(n)(u) were applied, no discrimination was recorded at all.
 - iii. 13.2% of participants had experienced incidences of discrimination as consequences of something arising from their disability; the incidences of discrimination increasing marginally to 14.1% when the EqA(y) variant was applied and reducing significantly to 8.57% when EqA(n)(u) variants were applied; and significantly when the variant RA(y) was applied the incidences of discrimination recorded reduced to 0%. Interestingly, within the concatenated sub-selection, when the RA(n*) variants were applied and the variant EqA(y), the incidences of discrimination recorded to 15.1%; increasing to 30% when the RA(n) and EqA(y) variant were applied; increasing further to 37.04% when the concatenated variants RA(n)(na) and EqA(y) was applied; reducing to 19.6% of participants recording incidences of discrimination when the variants EqA(y) and the concatenated variants RA(n)(na)(no) was applied. It was particularly notable that when the variant RA(nr) and EqA(n)(u) were applied, no incidences of discrimination were recorded at all.
 - iv. 9.6% of participants recorded indirect discrimination arising from their disability increasing to 10.9% when EqA(y) variant was applied and reducing to 2.86% when the EqA(n)(u) concatenated variants were applied within that subset; further incidences of recorded discrimination increased to 5.26% when RA(y) variant was applied; increasing to 10.7% when the concatenated variants RA(n*) and EqA(y) were applied. Interestingly, when the variants RA(n) and the EqA(y) were applied, the incidences of discrimination recorded increased to 30% reducing to 25.9% when the concatenated variants RA(n)(na) and variant EqA(y) were applied, and reducing further to 15.2% when the concatenated variants RA(n)(na)(no) and EqA(y) were applied. Interestingly, when the variant RA(nr) and concatenated variants EqA(n)(u) were applied the incidences of discrimination reported decreased significantly to 5.3%.
 - v. 9.1% of participants recorded incidences of discrimination by being treated less favorably because of a reason related to their disability increasing to 10.3% when the variant EqA(y) was applied and reducing substantially to 2.86% when the concatenated variants EqA(n)(u) were applied. It was particularly notable that no incidences of discrimination were recorded when the variant RA(y) was applied but when the concatenated variants RA(n*) and EqA(y) was applied the incidences of

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discrimination increased to 10.7%, and further increased to 40% when the variants RA(n) and EqA(y) were applied. When the concatenated variants RA(n)(na) and EqA(y) were applied the incidences of discrimination recorded reduced to 29.6%; reducing further when the concatenated variants RA(n)(na)(no) and EqA(y) were applied to 16.3%. It was particularly notable that when variants RA(nr) and EqA(n)(u) were applied, there were no incidences of discrimination recorded.

- vi. 7.3% of participants recorded incidences of discrimination in the form of disability harassment increasing marginally to 7.6% when the variant EqA(y) was applied and reducing to 5.71% when the concatenated variants EqA(n)(u) were applied. Interestingly, when the variant RA(y) was applied there was a recorded incidences of discrimination of 5.26% and a marginal increase to 8.1% when the concatenated variant RA(n*) and EqA(y) were applied. When the concatenated variants RA(n) and EqA(y) were applied the incidences of discrimination increased to 70%; reduced recording incidences of discrimination of 29.6% when the concatenated variants RA(n)(na) and EqA(y) were applied; reducing to 14.1% when the concatenated variants RA(n)(na)(no) and EqA(y) were applied. It was particularly notable that when variants RA(nr) and EqA(n)(u) were applied, there were no incidences of discrimination recorded.

Substrates

206. Significantly, overall:

- 62 Respondents recorded discrimination of a failure to make reasonable adjustments; 57 Respondents recorded discrimination of a failure to undertake an assessment of needs; 29 Respondents recorded discrimination as a consequence of something arising from a disability;
- Interestingly, the same statistical pattern exists when the concatenated variants: of EqA(y); RA(n*) and EqA(y); and RA(n)(na)(no) were applied.
- Similarly, a consistent statistical pattern of those participants who stated that the recording of incidences of discrimination were not applicable was observed with overall 110 incidences recorded; reducing to 95 when the EqA(y) variant was applied; reducing to 74 when the RA(n*) and EqA(y) variants were applied; reducing to 28 recorded incidences of not applicable when the concatenated RA(n)(na)(no) and EqA(y) variants were applied.

Discrimination by Impairment Group

207. Participants recorded a risk profile of experiencing prohibited unlawful disability discrimination in judicial-office by impairment group by recorded incidences included by risk order below:

1. Arthritis/orthopedic related [Impairment group(3)];
2. Neuromuscular skeletal [Impairment Group(10)];
3. Hearing [Impairment Group(1)];
4. Respiratory [Impairment Group(4)];
5. Heart [Impairment Group(5)];
6. Vision [Impairment Group(2)];
7. Cancer [Impairment Group(14)].

208. Overall, the following observations regarding disability discrimination and impairment group were made:

- 57.1% of participants with arthritis/orthopedic related impairment recorded incidences of indirect disability discrimination expressed by the variant D(i) at 57.1%; followed by recorded incidence of discrimination by a failure to assess needs expressed by the variant D(fn) at 50.9%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 50%; followed by recorded incidence of discrimination of less favourable treatment expressed by the variant D(lf) at 45% and finally recorded incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 44.8%
- 37.5% of participants with neuromuscular skeletal impairment recorded incidences of discrimination by victimisation expressed by the variant D(v) at 37.5%; followed by incidence of discrimination of less favourable treatment expressed by the variant D(lf) at 25%; followed by incidence of direct discrimination expressed by the variant D(d) at 25%; and finally incidences of discrimination by disability harassment expressed by the variant D(h) at 18.8%
- 25% of participants with hearing impairments recorded incidences discrimination by victimisation expressed by the variant D(v) at 25%; followed by incidence of discrimination as a consequence of

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something arising from their disability expressed by the variant D(c) at 24.1%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 22.6% and finally recorded incidence of discrimination by a failure to assess needs expressed by the variant D(fn) at 21.1%

- 31.3% of participants with respiratory impairment recorded incidences of discrimination by disability harassment expressed by the variant D(h) at 31.3%; followed by incidence of discrimination by a failure to undertake assessment of their needs expressed by the variant D(fn) at 26.3%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 20.7%; and finally by incidence of discrimination of less favourable treatment expressed by the variant D(lf) at 20%
- 31.3% of participants with heart related impairment recorded incidences of direct disability discrimination expressed by the variant D(d) at 31.3%; followed by incidence of indirect discrimination expressed by the variant D(i) at 28.6%; recorded incidences of discrimination by disability victimisation expressed by the variant D(v) at 25% and finally recorded incidences of discrimination by disability harassment expressed by the variant D(h) at 18.8%
- 37.5% of participants with a visual impairment reported incidences of discrimination by victimisation expressed by the variant D(v) at 37.5%; by incidence of discrimination of less favourable treatment expressed by the variant D(lf) at 25%; followed by incidence of direct disability discrimination expressed by the variant D(d) at 25% and finally incidences of discrimination by disability harassment expressed by the variant D(h) at 18.8%
- 18.8% of participants with a cancer related impairment recorded incidences of discrimination by disability harassment expressed by the variant D(h) at 18.8%; followed by incidence of discrimination by victimisation expressed by the variant D(v) at 12.5%; followed by incidence of discrimination by a failure to undertake assessment of their needs expressed by the variant D(fn) at 12.3%; and finally by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 11.3%

209. When the variant EqA(y) was applied by impairment group, the incidences of discrimination in the risk profile of participants' remains the same. Within this substrate, the risk trajectory increases upwardly as follows:

- 60% of participants with arthritis/orthopedic related impairment recorded incidences of indirect disability discrimination expressed by the variant D(i); followed by incidence of discrimination by a failure to undertake assessment of their needs expressed by the variant D(fn) at 58.9%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 50.9%; and finally followed by incidence of direct disability discrimination expressed by the variant D(d) at 50%
- 35.3% of Participants with neuromuscular skeletal impairment recorded incidence of discrimination by a failure to assess their needs expressed by the variant D(fn); followed by incidences of indirect disability discrimination expressed by the variant D(i) at 35%; followed by incidence of direct disability discrimination expressed by the variant D(d) at 31.3%; and finally followed by incidences of discrimination by victimisation expressed by the variant D(v) 25%
- 25% of participants with hearing impairment recorded incidences of discrimination by victimisation expressed by the variant D(v); followed by incidences of no adjustments made at all or not applicable expressed by the variant D(na) at 23.2%; followed by incidences of discrimination as a consequence of something arising from their disability by the variant D(c) at 23.1%; and finally incidence of discrimination by a failure to make reasonable adjustments D(ra) at 21.1%
- 35.7% of participants with respiratory impairment recorded incidences of discrimination by harassment expressed by the variant D(h); followed by incidence of discrimination by a failure to assess their needs expressed by the variant D(fn) at 27.5%; followed by incidence of discrimination by less favourable treatment expressed by the variant D(lf) at 21.1%; and finally incidence of discrimination by a failure to make reasonable adjustments D(ra) at 19.3%

210. When the EqA(y) and RA(n)(na) concatenated variants by impairment group were applied, the incidences of discrimination in the risk profile of participants' remains the same. Within this substrate, the risk trajectory increases upwardly as follows:

- 71.4% of participants with arthritis/orthopedic impairment recorded incidences of indirect discrimination expressed by the variant D(i); followed by incidences of no adjustments made at all or not applicable expressed by the variant D(na) at 66.7%; followed by incidence of direct disability discrimination expressed by the variant D(d) at 60%; and finally incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 56.3%
- 50% of participants with neuromuscular skeletal impairment recorded incidences of discrimination in the failure to assess their needs expressed by the variant D(fn); followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 50%; followed by

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incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 43.8%; and finally by incidence of direct disability discrimination expressed by the variant D(d) at 40%.

211. When the EqA(y) and RA(n)(na)(no) concatenated variants by impairment group were applied, the incidences of discrimination in the risk profile of participants remains the same. Within this substrate, the risk trajectory increases upwardly as follows:

- 71.4% of participants with arthritis/orthopedic impairment recorded incidences indirect discrimination expressed by the variant D(i); followed by incidence of direct disability discrimination expressed by the variant D(d) at 63.6%; followed by incidence of disability discrimination by less favourable treatment expressed by the variant D(lf) at 53.3%; and finally incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 53.3%
- 42.9% of participants with neuromuscular skeletal impairment recorded incidences of no discrimination; followed by incidence of discrimination by a failure to assess their needs expressed by the variant D(fn) at 35.9%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 33.3%; followed by incidences of disability discrimination by victimisation expressed by the variant D(v) at 28.6%; and finally incidence of indirect discrimination expressed by the variant D(i) at 28.6%.
- 28.6% of participants with hearing impairment recorded incidences of discrimination by victimisation expressed by the variant D(v); followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 27.8%; followed by incidences of no adjustments made at all or not applicable expressed by the variant D(na) at 25%; and finally incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 15.6%;

212. Interestingly, when the EqA(n)(u) and RA(nr) concatenated variants by impairment group were applied, only 2 incidences of discrimination were reported.

Discrimination by reasonable adjustment category (EP) all variants

213. Participants recorded a risk profile of experiencing prohibited unlawful disability discrimination in judicial-office by reasonable adjustment category incidences included risk order below:

- EP(1) Making adjustments or adaptations to premises;
- EP(9) Acquiring or modifying equipment;
- EP(16) Training of colleagues, managers and co-workers;
- EP(5) Altering hours of working or the training received.

214. Overall, the following observations regarding disability discrimination and reasonable adjustments required for effective productivity were made:

- 81.3% of participants identifying as requiring, effectively, the need for making adjustments or adaptations to premises recorded incidences of direct disability discrimination expressed by the variant D(d); followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 75.8%; followed by incidences of disability discrimination by harassment expressed by the variant D(h) at 75%; followed by incidences of disability discrimination by victimisation expressed by the variant D(v) 75%; and finally incidences of discrimination by a failure to assess their needs expressed by the variant D(fn) 73.7%
- 68.8% of participants identifying as requiring, effectively, the need for acquiring or modifying equipment recorded incidences of direct disability discrimination expressed by the variant D(d); followed by incidences --of disability discrimination by harassment expressed by the variant D(h) at 68.8%; followed by incidence of indirect discrimination expressed by the variant D(i) at 61.9%; followed by incidence of discrimination by less favourable treatment expressed by the variant D(lf) at 55%; and finally incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 53.2%
- 44.2% of participants identifying as requiring, effectively, no reasonable adjustments recorded incidences of no discrimination expressed by the variant D(na); followed by incidence of indirect discrimination expressed by the variant D(i) 14.3%; followed by incidences of disability discrimination by victimisation expressed by the variant D(v) at 12.5%; and finally incidences of discrimination by a failure to assess their needs expressed by the variant D(fn) at 7%.
- 68.8% of participants identifying as requiring, effectively, the need for training of colleagues, managers and co-workers recorded incidences of disability discrimination by harassment expressed by the variant D(h); followed by incidences of disability discrimination by victimisation expressed by the variant D(v) at 62.5%; followed by incidence of discrimination by less favourable treatment expressed by the variant D(lf) at 60%;

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followed by incidences of direct disability discrimination expressed by the variant D(d) at 56.3%; and finally followed by incidences of indirect disability discrimination expressed by the variant D(i) at 44.8%

- 31.3% of participants identifying as requiring, effectively, the need for altering hours of working or the training received recorded incidences of disability discrimination by harassment expressed by the variant D(h); followed by incidences of disability discrimination by victimisation expressed by the variant D(v) at 25%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 20.7%; followed by incidence of indirect discrimination expressed by the variant D(i) at 19.1%; and finally followed by incidence of direct discrimination expressed by the variant D(d) at 18.8%

Discrimination by reasonable adjustment category (OP) all variants

215. Participants recorded a risk profile of experiencing prohibited unlawful disability discrimination in judicial-office by reasonable adjustment category incidences, operationally deployed, by risk order below:

- OP(1) Making adjustments or adaptations to premises;
- OP(9) Acquiring or modifying equipment;
- OP(7) Allowing a period of disability leave.

216. Overall, the following observations regarding disability discrimination and reasonable adjustments operationally deployed were made:

- 63.5% of participants identifying as received, operationally, no reasonable adjustments deployed recorded incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn); followed by incidence of discrimination by victimisation expressed by the variant D(v) at 62.5%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) 58.6%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 58.1%; and finally incidence of no reasonable adjustments deployed at all or not applicable expressed by the variant D(na) at 57.5%;
- 30% of participants identifying as received, operationally, a degree of reasonable adjustments deployed in the form making adjustments or adaptations to premises recorded incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf); followed by incidence of direct discrimination expressed by the variant D(d) at 25%; followed by incidences of disability discrimination by harassment expressed by the variant D(h) 25%; followed by incidence of discrimination as a consequence of something arising from their disability by expressed by the variant D(c) at 24.1%; and finally followed by incidence of indirect discrimination expressed by the variant D(i) at 23.8%;
- 28.6% of participants identifying as received, operationally, a degree of reasonable adjustments deployed in the form of acquiring or modifying equipment recorded incidences of indirect discrimination expressed by the variant D(i); followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 15%; followed by incidence of discrimination as a consequence of something arising from their disability by expressed by the variant D(c) 13.8%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 12.9%; followed by incidence of direct discrimination expressed by the variant D(d) at 12.5%; and finally followed by incidences of disability discrimination by harassment expressed by the variant D(h) 12.5%;
- 12.5% of participants identifying as received, operationally, a degree of reasonable adjustments deployed in the form allowing a period of disability leave recorded incidences of direct disability discrimination expressed by the variant D(d); followed by incidences of no adjustments made at all or not applicable expressed by the variant D(na) at 10.8%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 6.9%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 6.5%; and finally followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 5.3%.

Discrimination by reasonable adjustment category EP EqA(y)

217. Participants recorded a risk profile of experiencing prohibited unlawful disability discrimination in judicial-office by reasonable adjustment category incidences included risk order below:

- EP(1) Making adjustments or adaptations to premises;
- EP(9) Acquiring or modifying equipment;
- EP(18) None or not applicable;
- EP(16) Training of colleagues, managers and co-workers;

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- EP(5) Altering hours of working or the training received.

218. *The following observations regarding disability discrimination and reasonable adjustments required for effective productivity and the elected variant EqA(y) were made:*

- 81.3% of participants identifying as requiring, effectively, the need for making adjustments or adaptations to premises recorded incidences of direct disability discrimination expressed by the variant D(d); followed by incidences of disability discrimination by harassment expressed by the variant D(h) at 78.6%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 77.2%; followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 76.5%; followed by incidence of discrimination by victimisation expressed by the variant D(v) at 73.7%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 69.2%; followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 68.4%; and finally followed with incidences of indirect disability discrimination expressed by the variant D(i) at 65%
- 71.4% of participants identifying as requiring, effectively, the need for acquiring or modifying equipment recorded incidences of disability discrimination by harassment expressed by the variant D(h); followed by incidences of direct disability discrimination expressed by the variant D(d) at 68.6%; followed by incidences of indirect disability discrimination expressed by the variant D(i) 65%; followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 52.6%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 50.9%; and finally followed by incidence of discrimination by victimisation expressed by the variant D(v) at 50%
- 42.1% of participants identifying as requiring, effectively, no need for reasonable adjustments recorded incidences of no disability discrimination expressed by the variant D(na); followed by incidences of indirect disability discrimination expressed by the variant D(i) at 15%; followed by incidence of discrimination by victimisation expressed by the variant D(v) at 12.5%; and finally followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 7.8%.
- 71.4% of participants identifying as requiring, effectively, the need for training of colleagues, managers and co-workers recorded incidences of disability discrimination by harassment expressed by the variant D(h); followed by incidence of discrimination by victimisation expressed by the variant D(v) at 62.5%; followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 57.9%; followed by incidences of direct disability discrimination expressed by the variant D(d) at 56.3%; followed by incidences of indirect disability discrimination expressed by the variant D(i) at 45%; and finally followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 42.3%;
- 35.7% of participants identifying as requiring, effectively, the need for altering hours of working or the training you receive recorded incidences of disability discrimination by harassment expressed by the variant D(h); followed by incidence of discrimination by victimisation expressed by the variant D(v) at 25%; followed by incidences of indirect disability discrimination expressed by the variant D(i) at 20%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 19.2%; followed by incidences of direct disability discrimination expressed by the variant D(d) at 18.8%; and finally followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 17.5%.

Discrimination by reasonable adjustment category OP EqA(y)

219. *Participants recorded risk profile of experiencing prohibited unlawful disability discrimination in judicial-office by reasonable adjustment category incidences, operationally deployed, included by risk order below:*

- OP(18) No adjustments made or not applicable;
- OP(1) Making adjustments or adaptations to premises;
- OP(9) Acquiring or modifying equipment;
- OP(7) Allowing a period of disability leave.

220. *The following observations regarding disability discrimination and reasonable adjustments operationally deployed, and the elected EqA(y) variant were made:*

- 62.5% of participants identifying as received, operationally, no reasonable adjustments deployed recorded incidences of disability discrimination by victimisation expressed by the variant D(v); followed by incidences of disability discrimination related to the failure to assess their needs expressed by the

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variant D(fn) at 60.8%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 54.4%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 53.9%; followed by incidences of indirect disability discrimination expressed by the variant D(i) at 45%; and finally incidence of no reasonable adjustment deployed or not applicable expressed by the variant D(na) at 53.3%;

- 31.6% of participants identifying as received, operationally, a degree of reasonable adjustments deployed in the form making adjustments or adaptations to premises recorded incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf); followed by incidence of no reasonable adjustment deployed or not applicable expressed by the variant D(na) at 25%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 26.9%; followed by incidences of direct disability discrimination expressed by the variant D(d) at 25%; followed by incidences of indirect disability discrimination expressed by the variant D(i) at 25%; and finally followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 23.5%;
- 30% of participants identifying as received, operationally, a degree of reasonable adjustments deployed in the form of acquiring or modifying equipment recorded incidences of indirect discrimination expressed by the variant D(i); incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 15.8%; followed by incidence of discrimination as a consequence of something arising from their disability by expressed by the variant D(c) at 15.4%; followed by incidences of disability discrimination harassment expressed by the variant D(h) at 14.3%; and finally followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 14%;
- 13.7% of participants identifying as received, operationally, a degree of reasonable adjustments deployed in the form allowing a period of disability leave recorded no incidences disability discrimination expressed by the variant D(na); followed by incidences of direct disability discrimination expressed by the variant D(d) at 12.5%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 7%; followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 5.9%; and finally followed by incidences of indirect discrimination expressed by the variant D(i) 5%.

Discrimination by reasonable adjustment category EP EqA(y) RA(n) RA(na)

221. Participants recorded a risk profile of experiencing prohibited unlawful disability discrimination in judicial-office by reasonable adjustment category incidences included risk order below:

- EP(1) Making adjustments or adaptations to premises;
- EP(9) Acquiring or modifying equipment;
- EP(16) Training of colleagues, managers and co-workers.

222. The following observations regarding disability discrimination and reasonable adjustments required for effective productivity and the concatenated variant EqA(y) RA(n) RA(na) are as follows:

- 100% of participants identifying as requiring, effectively, the need for making adjustments or adaptations to premises recorded incidences of disability discrimination by harassment expressed by the variant D(h); followed incidences of disability discrimination by victimisation expressed by the variant D(v) 100%; followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 83.3%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 81.3%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 80%; and finally followed by incidences of direct disability discrimination expressed by the variant D(d) at 80%;
- 100% of participants identifying as requiring, effectively, the need for acquiring or modifying equipment recorded incidences of direct disability discrimination expressed by the variant D(d); followed by incidences of disability discrimination by harassment expressed by the variant D(h) at 100%; followed incidences of disability discrimination by victimisation expressed by the variant D(v) at 100%; followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 91.7%; and finally followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 87.5%;
- 100% of participants identifying as requiring, effectively, the training of colleagues, managers and co-workers recorded incidences of disability discrimination by victimisation expressed by the variant D(v); followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 87.5%; followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 83.3%; followed by incidences of direct disability discrimination expressed by the variant D(d) at 80%; and finally by incidences of disability

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discrimination by harassment expressed by the variant 80% D(h) at 75%.

Discrimination by reasonable adjustment category OP EqA(y) RA(n) RA(na)

223. Overall, 55.6% of participants identifying as received, operationally, no reasonable adjustments deployed recorded or no incidences of disability discrimination expressed by the variant D(na); followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 31.3%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 30%; and finally both followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) and by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 25%.

Discrimination by reasonable adjustment category EP EqA(y) RA(n) RA(no)

224. Participants recorded a risk profile of experiencing prohibited unlawful disability discrimination in judicial-office by reasonable adjustment category incidences included by risk order below:

- EP(1) Making adjustments or adaptations to premises;
- EP(9) Acquiring or modifying equipment;
- EP(16) Training of colleagues, managers and co-workers.

225. *Observations regarding disability discrimination and reasonable adjustments required for effective productivity and the concatenated variant EqA(y)RA(n)RA(no) are as follow:*

- 81.8% of participants identifying as requiring, effectively, the need for making adjustments or adaptations to premises recorded incidences of disability discrimination by failure to make reasonable adjustments expressed by the variant D(d); followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 80%; followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 79.5%; by incidences of disability discrimination by harassment expressed by the variant D(h) at 76.9%; and finally by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 73.3%;
- 72.7% of participants identifying as requiring, effectively, the need for acquiring or modifying equipment recorded incidences of direct disability discrimination expressed by the variant D(d); followed by incidences of indirect discrimination expressed by the variant D(i) at 71.4%; followed by incidences of disability discrimination by harassment expressed by the variant D(h) at 69.2%; followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 60%; and finally followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 50%;
- 69.2% of participants identifying as requiring, effectively, the training of colleagues, managers and co-workers recorded incidences of disability discrimination by harassment expressed by the variant D(h); followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 60%; followed by incidences of disability discrimination by victimisation expressed by the variant D(v) at 57.1%; and finally followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 54.6%.

Discrimination by reasonable adjustment category OP EqA(y) RA(n) RA(no)

226. *Observations regarding disability discrimination and reasonable adjustments operationally deployed, and the concatenated variants EqA(y)RA(n)RA(no) are as follows:*

- 71.4% of participants identifying as received, operationally, no reasonable adjustments deployed recorded incidences of disability discrimination expressed by the variant D(v); followed by incidences of disability discrimination related to the failure to assess their needs expressed by the variant D(fn) at 64.1%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 55.6%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 53.3%; and finally followed by incidences of indirect discrimination expressed by the variant D(i) at 50%;
- 35.7% of participants identifying as received, operationally, a degree of reasonable adjustments deployed in the form of acquiring or modifying equipment recorded no incidences of disability discrimination expressed by the variant D(na); followed by incidences of disability discrimination related to less favourable treatment expressed by the variant D(lf) at 33.3%; followed by incidence of discrimination as a consequence of something arising from their disability expressed by the variant D(c) at 27.8%; followed by incidence of discrimination by a failure to make reasonable adjustments expressed by the variant D(ra) at 26.7%; and finally followed by incidences of disability discrimination

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related to the failure to assess their needs expressed by the variant (fn) at 23.1%;

227. Unremarkably, when the EqA(n)(u) concatenated variants and RA(nr) variant were applied to examine the effect on Effective Productivity (EP), 2 responses were generated of no statistical significance. Furthermore, when the EqA(n)(u) concatenated variants and RA(nr) were applied to examine the effect of Operational Productivity (OP), 3 responses were generated of no statistical significance.

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5.11 Question 8: Judicial Conduct

Results Data Sheet by Complaint and Substrates

Answer Options / variant jc(y*) / jc(n)	Response Percent	TPAD EqA(y)	TPAD EqA(n)(u)	TPAD RA(y)	TPAD RA(n*)	TPAD D(ra)	TPAD D(fn)	TPAD D(c)
Yes. I complained to the bench chairman of the local justice area.	11.42%	11.96%	8.6%	15.8%	15.4%	11.42	21.1%	27.6%
Yes. I complained to the Advisory Committee to The Lord Chancellor.	*	*	0%	0%	*	*	*	*
Yes. I complained to The Lord Chief Justice.	*	*	0%	0%	*	*	*	*
Yes. I exhausted the complaints procedure and remained unresolved.	*	*	*	0%	*	*	*	13.8
Yes. I exhausted the complaints procedure and was resolved.	*	*	0%	0%	*	*	*	0%
Yes. I had to commence legal proceedings or action	0%	0%	0%	0%	0%	0%	0%	0%
No	84.5%	84.8%	82.7%	84.2%	84.2%	59.7%	66.8%	65.5%

Data Protection Act 1998

*Denotes less than 20 responses recorded and not presented to prevent identification
The RR denoted records round down or up. The number of incidents recorded is below a level that the RR rates are not publishable in order to protect the privacy of any individual.

Other

228. Respondents made the following comments under the 'other' category:

1. "No point?"
2. "Never went anywhere as far as I know."
3. "Yes it was dealt with to my satisfaction."
4. "Yes, but resolved at after court briefing. Bench chair not needed."
5. "Haven't had the strength to do so in past."
6. "I complained to the justices' clerk."
7. "My concerns were ignored."
8. "I told the person making the comment that it wasn't funny!"
9. "I offered to resign when my difficulties were highlighted, but the Bench chair was very helpful and gave me time to sort out my hearing aids - I do not think anything else practical was done."
10. "Justices Clerk Court manager."

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11. "Waste of time nothing will be done."
12. "Conduct of Barrister was complained to their Head of Chambers."
13. "I spoke to the perpetrator directly."

Summary of analysis

229. The TPAD survey data provided an interesting array of incidences recorded of magistrates with disabilities pursuing disability related complaints as follows:

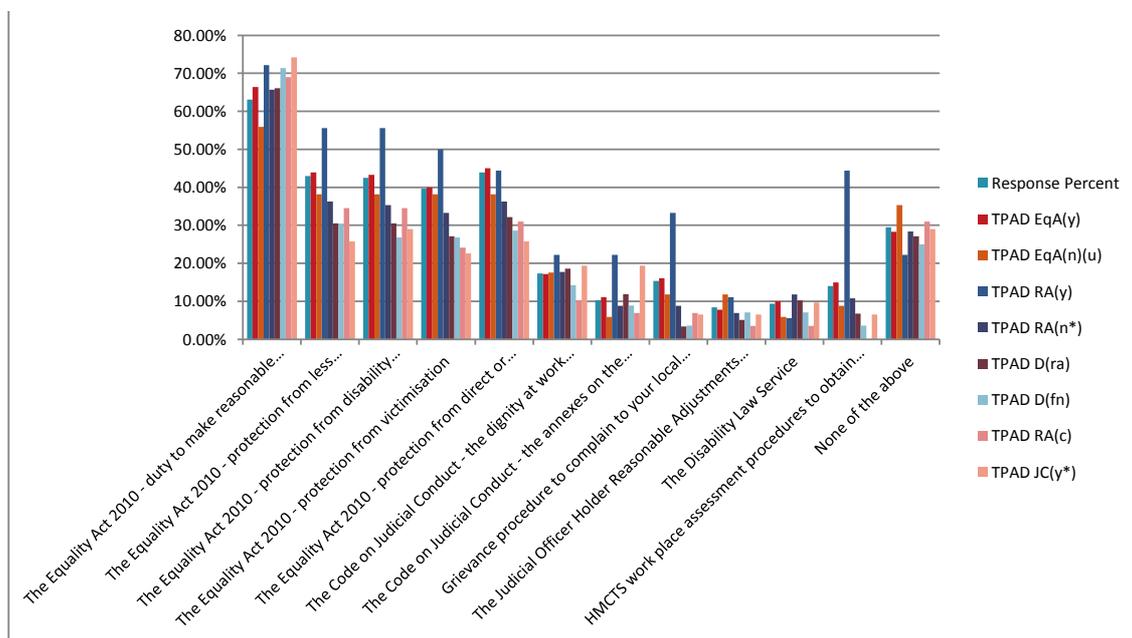
- 11.42% of participants recorded incidences of disability related complaints, raising concerns with the Bench Chairman of the local justice's area as represented by the variant J(c) connected with the conduct of a judicial colleague; increasing marginally to 12% when the variant EqA(y) was applied and reducing to 8.6% when the concatenated variants EqA(n)(u) were applied.
- Interestingly, when the variant RA(y), which represents those participants who have had their reasonable adjustments implemented in full, there was an increase in complaints within the J(c) to 15.8% and a marginal decrease to 15.4% when the concatenated substrate RA(n*) was applied.
- Further, when the D(ra) variant was applied, 11.42% of participants had recorded a complaint had been made to the Bench Chairman; increasing to 21.1% when the D(fn) variant representing those who had been discriminated against by a failure to assess their disability related needs; increasing further to 27.6% when the D(c) variant was applied which represented those who had complained to the Bench Chairman because of disability discrimination as a consequence of something related to their disability. This substrate also recorded that 13.8% of complaints recorded remained unresolved.

230. The other variants representing complaints to the Advisory Committee, Lord Chief Justice or bringing legal proceedings in a court recorded negligible conduct complaints or none at all.

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5.12 Question 9: Knowledge and understanding of disability policy or help

Figure 11 Magistrates with disabilities equality policy awareness



Results Data Sheet by Policy Area and Substrates

Answer Options / by Key Variants	Response Percent	TPAD EqA(y)	TPAD EqA(n)(u)	TPAD RA(y)	TPAD RA(n*)	TPAD D(ra)	TPAD D(fn)	TPAD D(c)	TPAD JC(y*)	TPAD JC(n*)
The Equality Act 2010 - duty to make reasonable adjustments for office holders	63.1%	66.4%	55.9%	72.2%	65.7%	66.1%	71.4%	69%	74.2%	61.2%
The Equality Act 2010 - protection from less favourable treatment	43%	43.9%	38.2%	55.6%	36.3%	30.5%	30.4%	34.5%	25.8%	45.9%
The Equality Act 2010 - protection from disability harassment	42.5%	43.3%	38.2%	55.6%	35.3%	30.5%	26.8%	34.5%	29%	44.8%
The Equality Act 2010 - protection from victimisation	39.7%	40%	38.2%	50%	33.3%	27.1%	26.8%	24.1%	22.6%	42.6%
The Equality Act 2010 - protection from direct or indirect disability discrimination	43.9%	45%	38.2%	44.4%	36.3%	32.2%	28.6%	31%	25.8%	47%
The Code on Judicial Conduct - the dignity at work statement	17.3%	17.2%	17.6%	22.2%	17.7%	18.6%	14.3%	10.3%	19.4%	16.9%
The Code on Judicial Conduct - the annexes on the Equality Act 2010	10.3%	11.1%	5.9%	22.2%	8.8%	11.9%	8.9%	6.9%	19.4%	8.7%
Grievance procedure to complain to your local Advisory Committee disability discrimination	15.4%	16.1%	11.8%	33.3%	8.8%	3.4%	3.6%	6.9%	6.5%	16.9%
The Judicial Officer Holder Reasonable Adjustments Policy	8.4%	7.8%	11.8%	11.1%	6.9%	5.1%	7.1%	3.5%	6.5%	8.8%
The Disability Law Service	9.4%	10%	5.9%	5.6%	11.8%	10.2%	7.1%	3.5%	9.7%	9.3%
HMCTS work place assessment procedures to obtain reasonable adjustments	14%	15%	8.8%	44.4%	10.8%	6.8%	3.6%	0%	6.5%	15.3%
None of the above	29.5%	28.3%	35.3%	22.2%	28.4%	27.1%	25%	31%	29%	29.5%

Substrates

Substrates	Responses Received RR(ALL)
The Equality Act 2010 - duty to make reasonable adjustments for office holders	135
The Equality Act 2010 - protection from less favourable treatment	92
The Equality Act 2010 - protection from disability harassment	91
The Equality Act 2010 - protection from victimisation	85
The Equality Act 2010 - protection from direct or indirect disability discrimination	94
The Code on Judicial Conduct - the dignity at work statement	37
The Code on Judicial Conduct - the annexes on the Equality Act 2010	22
Grievance procedure to complain to your local Advisory Committee disability discrimination	33
The Judicial Officer Holder Reasonable Adjustments Policy	18
The Disability Law Service	20
HMCTS work place assessment procedures to obtain reasonable adjustments	30
None of the above	63

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Summary of analysis

Awareness of disability related judicial policies

231. The TPAD survey provided an interesting array of incidences regarding the participants' familiarity with judicial disability related policies, the provisions of the Equality Act 2010 and sources of disability related help. Magistrates with disabilities have outward facing judicial and equality duties towards users or officers of the court, and also equality competence requirements towards other magistrates. Specifically, in relation to knowledge or understanding by magistrates with disabilities in respect of Statutory Torts¹⁶⁵ as defined by the Equality Act 2010, judicial policies or sources of help, the following observations are set out below.

Magistrates with disabilities with no knowledge of disability equality policy

- 29.5% of participants (63 magistrates with disabilities) recorded **no** knowledge or understanding of any of the equality provisions or policies listed (below) with:
 - i. Incidences marginally decreasing to 28.3% when the variant EqA(y) was applied; decreasing to 35.3% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly decreased to 22.2%. Conversely, when the concatenated variants RA(n*), indicating those participants had not receive reasonable adjustments in full or not at all, were applied the incidences increased significantly to 28.3%.
 - iii. When the variant D(ra) was applied, indicating disability discrimination by a failure to make reasonable adjustments, the incidences decreased to 27.1%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced to 25%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences increased to 31%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants had engaged some element of judicial conduct policy, the recorded incidence decreasing to 29%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence remained at the same level of awareness at 29.5%.

Magistrates with disabilities knowledge of reasonable adjustments policy

- 63.1% of participants recorded knowledge or understanding of the duty to make reasonable adjustments for office-holders under the Equality Act 2010 with:
 - i. Incidences marginally increasing to 66.4% when the variant EqA(y) was applied; decreasing to 55.9% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 72.2%. Conversely, when the concatenated variants RA(n*), indicating those participants had not receive reasonable adjustments in full or not at all, were applied the incidences decreased significantly to 65.7%.
 - iii. When the variant D(ra) was applied, indicating disability discrimination by a failure to make reasonable adjustments, the incidences increased to 66.1%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced significantly to 71.4%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences significantly decreased to 69%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants had engaged some element of judicial conduct policy, the recorded incidence dramatically decreasing to 74.2%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had significantly higher awareness at 61.2%.
- The above indicates that those magistrates who had reasonable adjustments implemented in full had significantly higher awareness of the protection of this form of discrimination; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination or engaged the judicial conduct policies had marginally reduced knowledge or understanding of the specific protection.

Magistrates with disabilities knowledge of less favourable treatment policy

- 43% of participants recorded knowledge or understanding of protection from less favourable treatment (singularly, a legal term more associated with the Disability Discrimination Act 1995¹⁶⁶) with:
 - i. Incidences marginally increasing to 43.9% when the variant EqA(y) was applied; decreasing to 38.2% when the

¹⁶⁵ Statutory Torts; Chapter 1; Pages 1-3, 10; The Equal Treatment Bench Book; November 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

¹⁶⁶ Part 11; Section 5(1)(a); Disability Discrimination Act 1995; UK Statute; <http://www.legislation.gov.uk/ukpga/1995/50/part/II>

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concatenated variants EqA(n)(u) were applied.

- ii. When the variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 55.6%. Conversely, when the concatenated variants RA(n*), indicating those participants had not receive reasonable adjustments in full or not at all, were applied the incidences decreased significantly to 36.3%.
 - iii. When the variant D(ra) was applied, indicating disability discrimination by a failure to make reasonable adjustments, the incidences decreased significantly to 30.5%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced significantly to 30.4%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences significantly decreased to 34.5%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants had engaged some element of judicial conduct policy, the recorded incidence dramatically decreasing to 25.8%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had significantly higher awareness at 45.9%.
- The above indicates that those magistrates who had reasonable adjustments implemented in full had significantly higher awareness of the protection of this form of discrimination; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination or engaged the judicial conduct policies all had significantly reduced knowledge or understanding of the specific protection.

Magistrates with disabilities knowledge of disability harassment policy

- 42.5% of participants recorded knowledge or understanding of protection from disability harassment under the Equality Act 2010 with:
 - i. Incidences marginally increasing to 43.3% when the variant EqA(y) was applied; decreasing to 38.2% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 55.6%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not received reasonable adjustments in full or not at all, were applied the recorded incidence decreased significantly to 35.3%;
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences decreased significantly to 30.5%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced significantly to 26.8%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 34.5%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants had engaged some element of judicial conduct policy, the recorded incidence decreased to 29%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had significantly higher awareness at 44.8%.
- The above indicates that those magistrates who had reasonable adjustments implemented in full had significantly higher awareness of the protection of this form of discrimination; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination or engaged the judicial conduct policies all had significantly reduced knowledge or understanding of the specific protection.

Magistrates with disabilities knowledge of disability victimisation policy

- 39.7% of participants recorded knowledge or understanding of protection from disability victimisation under the Equality Act 2010 with:
 - i. Incidences marginally increasing to 40% when the variant EqA(y) was applied; decreasing to 38.2% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 50%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not received reasonable adjustments in full or not at all, were applied the recorded incidence decreased significantly decreased to 33.3%.
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences decreased significantly to 27.1%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced significantly to 26.8%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 24.1%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants who had not engaged some element of judicial conduct policy, the recorded incidence had significantly lower awareness at 22.6%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged

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policies on judicial conduct, the recorded incidence had significantly higher awareness at 42.6%.

- The above indicates that those magistrates who had reasonable adjustments implemented in full had significantly higher awareness of the protection from this form of discrimination; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination or engaged the judicial conduct policies all had significantly reduced knowledge or understanding of the specific protection.

Magistrates with disabilities knowledge of disability direct or indirect discrimination policy

- 43.9% of participants recorded knowledge or understanding of protection from direct or indirect disability discrimination under the Equality Act 2010 with:
 - i. Incidences marginally increasing to 45% when the variant EqA(y) was applied; decreasing to 38.2% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 44.4%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not received reasonable adjustments in full or not at all, were applied the recorded incidence decreased to 36.3%.
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences decreased significantly to 32.2%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced significantly to 28.6%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 31%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants who had engaged some element of judicial conduct policy, the recorded incidence had significantly lower awareness at 25.8%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had significantly higher awareness at 47%.
- The above indicates that those magistrates who had reasonable adjustments implemented in full had significantly higher awareness of the protection from this form of discrimination; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination or engaged the judicial conduct policies all had significantly reduced knowledge or understanding of the specific protection.

Magistrates with disabilities knowledge of judicial dignity at work policy

- 17.3% of participants recorded knowledge or understanding of the Judiciary's dignity at work statement referred to in the Code on Judicial Conduct with:
 - i. Incidences marginally decreasing to 17.2% when the variant EqA(y) was applied; marginally increasing to 17.6% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 22.2%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not receive reasonable adjustments in full or not at all, were applied the recorded incidence decreased to 17.7%.
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences increased to 18.6%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced significantly to 14.3%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 10.3%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants who had engaged some element of judicial conduct policy, the recorded incidence had significantly lower awareness at 19.4%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had decreased at 16.9%.
- The above indicates that those magistrates who had reasonable adjustments implemented in full had higher awareness of the protection from this form of discrimination; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination in the form of a failure to assess their needs or consequence of something arising from their disability had significantly reduced knowledge or understanding of the specific protection.

Magistrates with disabilities knowledge of disability related judicial grievance and conduct policy

- 10.3% of participants recorded knowledge or understanding of the Judiciary's policies (Equality Act 2010 annexes) referred to in the Code on Judicial Conduct with:
 - i. Incidences marginally increasing to 11.1% when the variant EqA(y) was applied; significantly decreasing to 5.9%

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when the concatenated variants EqA(n)(u) were applied.

- ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 22.2%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not received reasonable adjustments in full or not at all, were applied the recorded incidence decreased to 8.8%.
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences increased to 11.9%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences reduced significantly to 8.9%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 6.9%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants who had engaged some element of judicial conduct policy, the recorded incidence had significantly higher awareness at 19.4%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had decreased at 8.7%.
- The above indicates that those magistrates who had reasonable adjustments implemented in full had higher awareness of the protection from this form of discrimination; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination in the form of a failure to assess their needs or consequence of something arising from their disability had significantly reduced knowledge or understanding of the specific protection.
 - 15.4% of participants recorded knowledge or understanding of the Judiciary's grievance procedure referred to in the Code on Judicial Conduct as a draft or trial document (internet link bookmarked in the document does not work) with:
 - i. Incidences marginally increasing to 16.1% when the variant EqA(y) was applied; significantly decreasing to 11.8% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 33.3%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not receive reasonable adjustments in full or not at all, were applied the recorded incidence decreased significantly to 8.8%.
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences decreased to 3.4%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs was applied the incidences reduced significantly to 3.6%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 6.9%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants who had engaged some element of judicial conduct policy, the recorded incidence had significantly lower awareness at 6.5%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had increased at 16.9%.
 - The above indicates that those magistrates who had reasonable adjustments implemented in full had higher awareness of the grievance policy; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination in the form of a failure to assess their needs or consequence of something arising from their disability had significantly reduced knowledge or understanding of the specific policy.

Magistrates with disabilities knowledge of judicial office reasonable adjustment policy

- 8.4% of participants recorded knowledge or understanding of the Judiciary's Judicial Office Holder Reasonable Adjustment Policy with:
 - i. Incidences decrease to 7.8% when the variant EqA(y) was applied; decreasing significantly to 11.8% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded significantly increased to 11.1%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not received reasonable adjustments in full or not at all, were applied the recorded incidence decreased significantly to 6.9%.
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences decreased to 5.1%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences increased to 7.1%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 3.5%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants who had engaged some element of judicial conduct policy, the recorded incidence had significantly lower awareness at 6.5%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had increased at 8.8%.

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- The above indicates that those magistrates who had reasonable adjustments implemented in full or did not know or consider themselves as a disabled person under the Equality Act 2010 had higher awareness of the policy; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination in the form of a failure to assess their needs or consequence of something arising from their disability had significantly reduced knowledge or understanding of the specific policy.

Magistrates with disabilities knowledge of work place disability assessment policy

- 14% of participants recorded knowledge or understanding of HM Courts and Tribunal Service workplace assessment procedures or policy with:
 - i. Incidences increase to 15% when the variant EqA(y) was applied; decreasing significantly to 8.8% when the concatenated variants EqA(n)(u) were applied.
 - ii. When the concatenated variant RA(y), indicating the participants had received full implementation of reasonable adjustments, was applied the incidences recorded increased significantly to 44.1%. Conversely, when the RA(n*) concatenated variants, indicating those participants had not receive reasonable adjustments in full or not at all, were applied the recorded incidence decreased significantly to 10.8%.
 - iii. When the variant D(ra), indicating disability discrimination by a failure to make reasonable adjustments, was applied the incidences decreased to 6.8%; when the variant D(fn), indicating disability discrimination by a failure to assess their needs, was applied the incidences decreased to 3.6%; when the variant D(c), indicating disability discrimination as a consequence of something arising from their disability, was applied the incidences recorded decreased to 0%.
 - iv. When the concatenated variants JC(y*) were applied, indicating that those participants who had engaged some element of judicial conduct policy, the recorded incidence had significantly lower awareness at 6.5%.
 - v. When the concatenated variants JC(n*) were applied, indicating that those participants who had not engaged policies on judicial conduct, the recorded incidence had increased at 15.3%.
- The above indicates that those magistrates who had reasonable adjustments implemented in full had higher awareness of the policy; those who had no reasonable adjustments implemented or not implemented in full or those who had recorded incidences of discrimination in the form of a failure to assess their needs or consequence of something arising from their disability had significantly reduced knowledge or understanding of the specific policy.

Other

232. Respondents made the following comments under the 'other' category:

1. [Private letter regarding disability discrimination whilst at court. Not disclosed.]
2. "Certainly HMCTS seems either not to know or not care."
3. "Yes all of the above I am Chair of a Disability Group."
4. "It is more important for legal staff to be aware off these provisions!"
5. "The lead magistrate was very helpful and asked me to contact her if I was in difficulty but I have felt reluctant to do so as I don't want to make a fuss and I feel bad asking for cushions and footrests when I only serve 13 days a year (due to my job). In truth, I also really need the bench book on a tablet computer because I simply can't carry the big book and the small one for purchase is too difficult to read but feel uncomfortable requesting this."
6. "I have some knowledge and understand of all the above but have never had cause to study any detail."

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7. "Over the years we have had training on these and other issues but in practice very little is done about anything."
8. "I was diagnosed with secondary progressive MS 5 years after becoming a JP. Over the years it has worsened and my mobility is deteriorating. I am still able to sit and perform the duties as a chairman. Our court house does not have a stair-lift and I struggle to use the stairs but I manage. Ironically, the courthouse with a stair-lift was closed and the current one refurbished but no money to fit a stair-lift was available. Hopefully, I will be able to manage the stairs for the last 6 years before retirement!"
9. "It is a waste of time raising anything because nothing ever gets done."

5.13 Question 10: Personal Experience of Disability Discrimination as a Magistrate

233. In this section, no analysis is provided but the account of what was recorded is provided for readers to consider. The comments expressed as 'none' have been removed. The Data Protection Act 1998 and the law generally require the removal of names, places or biographical information which identifies any respondents or any person to which they attempt to identify. Spelling mistakes have been corrected but the original grammar remains. The order has been randomised. As this is a report with the intention of constructively improve the Judiciary's disability equality policies, comments which might scandalise have been removed.

234. *Respondents made the following comments under the personal experience category:*

1. "It's really brave to carry out a survey like this against a hostile background towards magistrates with a disability. The courts are interested in ticking the boxes claiming the glory and doing nothing to help in return. The justice clerk knows nothing about disability, reasonable adjustments or the kind of behaviour a disabled colleague experiences from others. I was criticised for not being a team player because I could not get up some stairs. I have also been told that the simplest thing for me to do was to retire. Our bench chairman was initially supportive but after having his ear bent by the a Justices Clerk his tone and attitude changed from support to me being treated like a problem, a burden and just another cost in face of cuts. The relationship between our bench chairman and the justices' clerk is unhealthy and it's certainly geared at preventing complying with the law and risk minimisation rather than pastoral support rather than a supportive role. All disabled magistrates would benefit from a clear process for getting help and holding individuals to [a] account. You just seem to bang your head against a brick wall constantly. The MA has limited scope to help and they [don't] provide any support for individual cases. In contrast bench chairmen have copious amounts of support with

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Judicial Office in dealing with disability issues, supporting the bench chairman personally and to protect the interests of the court. I have been left feeling very depressed, under-utilised and unvalued as a result of my experience with nobody to go to for emotional or well-being support. I'm not alone, I have a colleague who was upset by another magistrate because of comments made about her perceived sexuality and absolutely nothing was done about it. Why oh why do we not get trained in equality training. Some magistrates simply don't understand or get equality and their obligations. I haven't got long to retire but the next generation of magistrates are going to be dealing with a younger generation of people who will be less tolerant to a magistracy which ignorant of the need and benefit of bring an equality-centric organisation. We need to do more. Good luck."

2. "Use of microphones in the dock would be very useful and / or putting in a loop system."
3. "Recruitment was very good - accessible and supportive. But, court is not, generally accessible - I rely on staff a lot when some (simple) changes would make life a lot easier."
4. "HMCTS does not see beyond physical disability markers -such as wheelchair usage. A request for specific seating on the bench was acknowledged and not actioned. Disabled parking is non-existent in the building I use."
5. "Accountability is needed?"
6. "Still struggling with concept of having disabled magistrates. The legal profession is still the most discriminatory in existence."
7. "My bench has been extremely supportive and have made it possible for me to return after serious injury."
8. "No account was given to my disability when changes were made to car parking arrangements. (I now have park in a disabled bay in a public road)."

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9. "This survey should be sent to the entire magistracy with disabilities so that a clear picture can be obtained on the current state of play with the level of help given to disabled magistrates. From my observation it's a put up or shut up culture. Things need to change."
10. "The magistracy practices institutional disablism in a way that racism would never be tolerated. A colleague referred to witness with a facial scar as a freak and when I said that was unjustified he said he was only saying what others thought. Is it any wonder I'm depressed?"
11. "I have the Bench book App on Windows. Unfortunately this does not work in the same way as my colleagues on iPads. The court service allows me to use my own laptop and has not offered assistive equipment (for visual impairment). Documents are sent to me in PDFs whilst my Speech software cannot read them."
12. [Information removed to protect the participant identity].
13. "My colleagues and I could not understand why we did not have a lift for magistrates to use. This was brought up at every meeting. The answer was a stannah lift could be dangerous for other magistrates. In my time I was permanently in a wheelchair, after 9 months, I had received a call from a relevant person because my sittings were down. This was a person who I have never met. I had been asked why I hadn't been sitting for so long and why my sittings were down; I had explained I had been told they could not cater for me in a wheelchair but could use the customer lift were customers come in, but could not get into the bench because of the stairs or to the retiring room. I said this is discrimination how could we advertise for disabled magistrates if we cannot get them into court. He said he was shocked and would look into it. I did not hear from him again until after my very recent retirement. My colleagues did not even know about my retirement until the bench meeting, I have had countless phone calls because they did not know, there had been no card for them all to sign except one colleague after 22 years of very loyal service on the bench as winger, chairman, on youth panel, family panel and licensing."
14. "I have fought for some time for unfair behaviour of disabled people and did not win. I wish you luck with this survey if it gets more disabled people

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- on the bench. [Name removed]"
15. "Worse being judged whether fit to sit by a chair! Never got apology or told person was warned in anyway."
 16. "I self-catheterise multiple times a day and require access to a disabled toilet. My court doesn't have one except in the public area. Adjustments to access an adequate facility were made willingly by HMCTS but colleagues frequently impair this and make fun of the ensuing predicament."
 17. "Pressure to sit full days only."
 18. "No allowance made to replace sittings cancelled though Ill health or medical appointments."
 19. "No - colleagues are very understanding."
 20. "In order to be given taxi fares to go to court, I was asked by the Family Court to make an argument justifying why I needed it. This was in spite of being told that the Adult Court was already paying this. I then decided to resign but the deputy chair intervened on my behalf so I did not have to take any further action and I remained sitting as a family justice."
 21. "We have a stair lift - but no key is readily accessible to activate that lift."
 22. "Yes, I was asked if they knew of my disability when they interviewed me. I was also told by this person that he would not help me."
 23. "Having being on morphine and then changing to methadone which was because methadone was deemed a safer and better pain killing drug I was not allowed to sit on the bench. I was humiliated distressed and had to challenge this decision which was very difficult!"
 24. "Exclusion from serving in local courts due to unreasonable delay in assessment; resentment by some staff when disability was brought to their attention and adjustments needed to be done."

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25. "When asked for reasonable adjustment told to take 3 months leave."
26. "Not as such but there is a lot of pressure to sit in other courts in the county and to sit for full days under new court closure reforms."
27. "I was told "you don't look disabled"!!! How does one have to look to be disabled?"
28. "I have never experienced discrimination."
29. "No, apart from the general reluctance to allocate half day sittings now - but I haven't asked for this specifically, and if I had, it might have been granted. I'm not sure."
30. "The courts are old buildings. [Court name removed for privacy] is not wheelchair accessible to the bench, it has poor lighting, windy stairs, and acoustics are poor. This building in an antithesis of good accessibility and should be closed down"
31. "Only that there is no parking provision at the court for a disabled driver."
32. "I have repeated requested hearing loops to be working. They seemed to be switched off and no one knows how to turn them on!"
33. "Lack of understanding if I sit in a particular place to avoid being knocked or having to turn."
34. "Time to read paper(s) beforehand."
35. "I have to keep reminding management of my needs for very simple adaptations in the provision of water on benches - should be in a closed, clean container."
36. "I have to use a wheelchair and can only access 1 of the courts so my experience is limited to the type of work scheduled in that court. Not varied enough. I cannot access the Crown court for appeals so if I am due to sit on an appeal I have to notify to see if case can be heard in the magistrates' court. This is not always possible and I have to be replaced."

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37. "No. Apart from unsuitable premises made worse since merging of benches."
38. "During the recruitment processes, I was not asked nor were any reasonable adjustments made. The staff were totally unaware of the requirements of the legislation. I was originally assigned to an inaccessible court with steps, no disabled toilet facilities and no means of exiting the building in an emergency. I was then reassigned to a court which required one hour's journey by taxi each way. When a new Criminal Justice Centre was built, I was co-opted onto the Design Committee which was just as well as the architects had no knowledge of guidance to satisfy accessibility requirements. This resulted in a court which - mainly meets accessibility. However, only one Magistrates' Court is accessible and this is the same court with a desk for administrative staff which is used for Motoring offences. Hence I do more motoring courts than other magistrates and have a less diverse range of court work. When I recently was on Jury Service in the Crown Court, I could not be assigned a trial as there was no access to the Jury Box."
39. "Told not to use insulin in canteen as offensive to others, told to inject in toilet area. No mobility arrangements, a corridor was recently closed for office use and we have to go around the whole building to get to court rooms now. Steps in all the courts or at entrance for them. No help carrying files, unless I ask, then left to manage at end of day. Entrance from car park is powered door, and then there is a heavy unassisted door. No disabled parking arrangements, no alternative arrangement to enter building other than steep slope into underground car park."
40. "Yes lots."
41. "No - everyone is kind."
42. "I performed excellently at chairman's training yet failed at court chair appraisals, In hindsight I now realise it may have been because the court hearing loop system is not only faulty but it is difficult to get the whole court to use it, I was in the process of checking all the loop systems for the court centre manager just before he left. Besides the loop system to needing to be working properly it needs all persons in court to use the

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microphones otherwise this expensive equipment is useless because the hearing aid user switches off the ambient sound to tune into the loop.”

43. “I have great difficulty in carrying all of the paperwork I need to carry, for my duties.”
44. “I have suggested that the loan of an electronic device would make my life so much easier, but this has never been taken seriously.”
45. “No but the lack of a lift in the court building makes getting upstairs a slow and painful process.”
46. “Severe to profoundly deaf, dependants on high performance digital computers and lip reading...have asked for microphones to be activated /used to assist. These may not work or just not be activated there is no ill will intended but frequently a lack of understanding of the realities of a deaf as opposed to hard of hearing situation. The facilities are there but may not be seen as necessary by the majority.”
47. “Parking. Disabled bays used by those not holding a blue badge.”
48. “In response to my stating that I was struggling to sit in a court with stairs to the bench and no handrails on either side to hold onto, when I had been promised handrails would be fitted on transferring to another court following closure of my court, HMCTS staff confronted me in front of the other bench members in the retiring room , saying they did not know I needed the rails, despite having had a tour of the court with one of the managers to identify where I needed help and what adaptations were needed,. I was embarrassed in front of new colleagues from the other bench, made to feel a nuisance, and this was on my first sitting in the new court when I was getting used to a new building, etcetc, I have never forgotten how awkward and how much of a nuisance I felt to this day. I have much pain and mobility issues following an undiagnosed heel fracture, walk with a stick and have balance issues hence needing to be able to hold on to a handrail when going up and down steps. I have always found my JP colleagues to be helpful, open doors for me, allow me to sit in the furthest chair on the bench so I have a little longer to stand whilst the others stand and then hold the door open for me, allowing me to maintain

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my dignity when exiting the court. Am pleased this survey is being undertaken, if I can be of any assistance further as an active member I would be pleased to do so."

49. "HMCTS are not interested in disabled magistrates. You raise concerns and you are told no progress can be made because there is no money. I suffer terrible leg and back problems."
50. "There are too many examples to list. Working shorter hours when I'm having a bad day. The bench chairman won't entertain it. I was told to pull my socks up and get on with it."
51. "My return to work after a long absence fighting cancer was met with a performance appraisal and the bench chair was less than supportive. The bench needs to be trained in disability awareness training."
52. "When adjustments have been made to court buildings disability has not in my view being taken into consideration."
53. "None experienced - in fact just the opposite on our bench."
54. "Crown court sittings now not possible."
55. "Only the jokey comment that actually wasn't funny! I told the person I didn't find it amusing to comment on my need for a walking stick... & pointed out this could be viewed as discriminatory."
56. "Other than the benches inability to correctly maintain their equipment, no."
57. "Other than the above comments relating to my appraisal, no. But hearing issues are a problem for many as I have found out since my difficulties became generally apparent. I have had good support from colleagues."
58. "Yes - it took 18 months for an H & S assessment to take place for me to sit in neighbouring Magistrates & Crown Court. In the meantime I was prevented from sitting on numerous occasions."

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59. "No effort has been made to assist with sitting and made worse by implementing new computerised sitting pattern which does not take into account personal needs/limitations."
60. "Yes. Our car park and entry point. Are difficult."
61. "Forbidding my nominated driver from using the underground car park."
62. "When I first raised the subject of work place adjustments, in my case a change in work hours, was told by the chairman that I should take 3 months off! When I complained to the clerk to the justices as then known they said they could not take a different stance to the chairman. It was not until I told the clerk to the justices that I had been in touch with the disability discrimination tribunal that the stance was changed and I was told that "in your particular circumstances" we will make changes. I asked to be able to sit only half days which at the time of the request was all that the magistrates' directions required us to do anyway. One magistrate complained about me going home at lunch on one occasion which led to me being invited to attend a meeting to discuss my attendance to which I refused saying we agreed the adjustments and I see no good reason to attend."
63. "No one has ever approached me with regard to any assistance or help that could be offered around my disabilities."
64. "Being unable to sit on appeals at the Crowd Court due to access problems."
65. "Assessment to assess an ability to write."
66. "Parking; Saturday Sittings (closed car park); Fire Practice (no lifts and before we got evacuation chairs); poor bench chairs (broken; not adjustable); poor air conditioning (or none within Court); poor sunlight control within Court (temp issue)."
67. "Hearing loop not being turned on to save money. Then microphones not active so no input to hearing aids. Complained but and assured was

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- working but does not feed into hearing aids when function selected.”
68. “As a result of my marriage and because of a pregnancy.”
69. “On re-entry to the court-house after an evacuation I was initially refused access to the only entry point to the court-house without steps. Ultimately I went back into the building by this route as I refused to walk up the steps that were being hitherto insisted upon.”
70. “Certain bench colleagues were not prepared to make allowances to accommodate my disabilities. Despite my best attempts to resolve these problems, they were never adequately responded to. As a result, this has changed my approach to the discharge of my duties in this role.”
71. “Still unable to access regional Remand Court.”
72. “No, other than no consideration given to me and others difficulties.”
73. “No. In fact, I feel ironically grateful that I was recruited in part because of my disability. My then Justices' Clerk once replied (on direct enquiry from me) that it was unlikely that I would have otherwise have been recruited, because there were too many others with my sort of profile.”
74. “It has been said that as 85% of communications is non-verbal how can a blind JP be successful?”
75. “Colleagues have said that when the article first appeared in MA magazine they didn't want a committee of disabled people forming to tell them what to do and what not to do.”
76. “When we are sworn in we take an oath not to judge others and yet these colleagues are judging us.”
77. “No, other than reminding colleagues at meetings that only one person should speak at a time or I cannot understand what is said.”
78. “My wheelchair cannot access all buildings in the judicial area. It's blatant discrimination.”

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79. "Yes the court staff are poorly trained to understand the needs of magistrates who mobility impaired or with poor manual dexterity. The HMCTS have no time for disabled magistrates."
80. "I have real problems with the physical environment I.e. Accessing court rooms, temperature problems, poor lighting and general disrepair."

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5.14 Question 6: Question 7 Reasonable Adjustments EP / OP Productivity Analysis by multivariate

Answer Option Reasonable Adjustment Category ¹⁷ referred to in the Equality Act 2010 Code of Practices EP(n)/OP(n) / variant	EP Response Percent	OP Response Percent	EP-OP Differential Percent	EP-Eq(AV) Response Percent	OP-Eq(AV) Response Percent	EP-OP(Eq(AV)) Differential Percent	EP-Eq(A)(u) Response Percent	OP-Eq(A)(u) Response Percent	EP-OP(Eq(A)(u)) Differential Percent	EP(Eq(AV)) Response Percent	OP(Eq(AV)) Response Percent	EP-OP(Eq(AV)) Differential Percent	EP(Eq(A)(u)) Response Percent	OP(Eq(A)(u)) Response Percent	EP-OP(Eq(A)(u)) Differential Percent	EP(Eq(A)(u)) Response Percent	OP(Eq(A)(u)) Response Percent	EP-OP(Eq(A)(u)) Differential Percent
(1) Making adjustments or adaptation to premises	43.80%	23.70%	54.11%	49.46%	26.63%	53.84%	14.29%	8.57%	59.97%	42.11%	52.60%	124.91%	62.86%	26.67%	42.43%	62.86%	26.67%	42.43%
(2) Providing information in accessible formats to another person	10.00%	4.10%	41.00%	9.78%	4.89%	50.00%	11.43%	0.00%	0.00%	10.53%	5.26%	49.95%	10.48%	3.81%	36.35%	3.81%	0.00%	36.35%
(3) Allocating some of the judicial team duties to another person	5.50%	0.90%	16.36%	5.98%	0.54%	9.03%	2.86%	2.86%	100.00%	0.00%	0.00%	0.00%	8.57%	0.00%	0.00%	8.57%	0.00%	0.00%
(4) Transferring to another bench or Court	8.70%	3.70%	42.53%	10.33%	4.35%	42.11%	0.00%	0.00%	0.00%	5.26%	0.00%	0.00%	14.29%	3.81%	26.66%	3.81%	0.00%	26.66%
(5) Altering your hours of working or the training you receive	10.50%	4.10%	39.05%	10.87%	4.35%	40.02%	8.57%	2.86%	33.37%	5.26%	0.00%	0.00%	13.33%	2.86%	21.46%	2.86%	0.00%	21.46%
(6) Accessing different forms of training	7.80%	1.80%	23.08%	8.70%	2.17%	24.94%	2.86%	0.00%	0.00%	5.26%	0.00%	0.00%	11.43%	0.95%	8.31%	0.95%	0.00%	8.31%
(7) Allowing a period of disability leave	10.00%	8.20%	82.00%	11.41%	9.24%	80.98%	2.86%	2.86%	100.00%	5.26%	5.26%	100.00%	9.52%	8.57%	90.02%	8.57%	8.57%	90.02%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	5.50%	0.50%	9.09%	4.89%	0.00%	0.00%	8.57%	2.86%	33.37%	5.26%	0.00%	0.00%	7.62%	0.00%	0.00%	7.62%	0.00%	0.00%
(9) Acquiring or modifying equipment	30.10%	10.00%	33.22%	30.43%	10.87%	35.72%	28.57%	5.71%	19.99%	21.05%	15.79%	75.01%	44.76%	11.43%	25.54%	44.76%	11.43%	25.54%
(10) Providing a reader or interpreter	2.70%	0.90%	33.33%	2.72%	1.09%	40.07%	2.86%	0.00%	0.00%	0.00%	0.00%	0.00%	3.81%	1.90%	49.87%	3.81%	1.90%	49.87%
(11) Providing supervision or other support	1.40%	0.90%	64.29%	1.63%	1.09%	66.87%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.90%	0.95%	50.00%	1.90%	0.95%	50.00%
(12) Employing a support worker to assist a disabled magistrate	3.20%	0.90%	28.13%	3.80%	1.09%	28.68%	0.00%	0.00%	0.00%	5.26%	0.00%	0.00%	3.81%	1.90%	49.87%	3.81%	1.90%	49.87%
(13) Modifying disciplinary or grievance procedures	3.70%	0.50%	13.51%	4.35%	0.54%	12.41%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	1.90%	0.95%	50.00%	1.90%	0.95%	50.00%
(14) Modifying performance or appraisal arrangements	7.80%	0.50%	6.41%	9.24%	1.09%	11.80%	0.00%	0.00%	0.00%	5.26%	0.00%	0.00%	3.81%	0.95%	24.93%	3.81%	0.95%	24.93%
(15) Modifying recruitment arrangements for opportunities in the bench	5.90%	0.90%	15.25%	7.07%	2.17%	30.69%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	6.67%	1.90%	28.49%	6.67%	1.90%	28.49%
(16) Training of colleagues, managers and co-workers	14.60%	1.80%	12.33%	15.22%	2.17%	14.26%	11.43%	0.00%	0.00%	5.26%	0.00%	0.00%	10.48%	2.86%	27.29%	10.48%	2.86%	27.29%
(17) Modify a policy, procedure, practice or criterion	8.70%	3.70%	42.53%	9.24%	3.80%	41.13%	5.71%	2.86%	50.09%	5.26%	5.26%	100.00%	8.57%	5.71%	66.63%	8.57%	5.71%	66.63%
(18) None made or not applicable	27.90%	59.40%	46.97%	26.09%	56.52%	46.16%	37.14%	74.29%	49.99%	42.11%	36.84%	114.31%	23.81%	54.29%	43.86%	23.81%	54.29%	43.86%
Other	4.60%	1.40%	30.43%	3.26%	0.54%	16.56%	11.43%	5.71%	49.96%	0.00%	0.00%	0.00%	15.24%	0.95%	6.23%	15.24%	0.95%	6.23%
Productivity Gap by reasonable adjustment type	2.12	1.28	60.22%	2.24	1.33	59.31%	1.49	1.09	73.08%	1.63	1.21	74.18%	2.63	1.30	49.63%	2.63	1.30	49.63%
Productivity deficit			39.78%			40.69%			26.92%			25.82%			50.37%			50.37%

¹⁷ There are 18 variables for OP or EP denoted as EP(n) or OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3,4,5 or 6) throughout the survey

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Cost of Lost Productivity

Variant	ERA ¹⁶⁸	Nbr MWD ¹⁶⁹	Days	Hrs	Hr (Y)	Mins (Y)	Total Investment ERA	Total Hrs	RA (EP)		Hrs lost (EP)	E.Lost (EP)
									Per magistrate	Unit cost		
JO	£750.00	906	23	7	161	9660	£ 679,500.00	145866	0.398	£ 8.93	58055	£ 518,621.70
JO(EqA(V))	£750.00	729	23	7	161	9660	£ 546,750.00	117269	0.407	£ 8.93	47769	£ 426,738.03
ODI	£750.00	4363	23	7	161	9660	£ 3,272,250.00	702443	0.398	£ 8.93	279572	£ 2,497,512.67

Fixed cost¹⁷⁰

Cost per hour by disabled magistrates (variants)

(Investment distributed without discounted cash flow)

Average (TPAD)	Yrs.	JO (all) E/hr	JO (EqA(V)) E/hr	ODI E/hr	JO (all) E/5min interval	JO (EqA(V)) E/5min interval	ODI E/5min interval
EqA(V)	1	£4.66	£4.66	£4.66	£0.37	£0.37	£0.39
EqA(V)	13	£0.36	£0.36	£0.36	£0.03	£0.03	£0.03
EqA(V)	9	£0.52	£0.52	£0.52	£0.04	£0.04	£0.04
EqA(V)	16	£0.29	£0.29	£0.29	£0.02	£0.02	£0.02
RA(n*)	9	£0.52	£0.52	£0.52	£0.04	£0.04	£0.04
RA(n*)	14	£0.33	£0.33	£0.33	£0.03	£0.03	£0.03

Potential savings per hour by disabled magistrates (variants)

(without internal return on investment)

Average (TPAD)	Yrs.	JO (all) E/hr per Yr.	JO (EqA(V)) E/hr per Yr.	ODI E/hr per Yr.	JO (all) E/5min interval	JO (EqA(V)) E/5min interval	ODI E/5min interval
EqA(V)	1	£ 3.56	£ 3.64	£ 3.56	£ 0.30	£ 0.30	£ 0.30
EqA(V)	12.7	£ 45.15	£ 46.18	£ 45.15	£ 3.76	£ 3.85	£ 3.76
EqA(V)	13	£ 46.22	£ 47.27	£ 46.22	£ 3.85	£ 3.94	£ 3.85
EqA(V)	9	£ 32.00	£ 32.72	£ 32.00	£ 2.67	£ 2.73	£ 2.67
EqA(V)	16	£ 56.89	£ 58.17	£ 56.89	£ 4.74	£ 4.85	£ 4.74
RA(V)	9	£ 32.00	£ 32.72	£ 32.00	£ 2.67	£ 2.73	£ 2.67
RA(V)	14	£ 49.78	£ 50.90	£ 49.78	£ 4.15	£ 4.24	£ 4.15

¹⁶⁸ ERA £730: the total cost of making reasonable adjustment; Loyds Banking Group; Case Study, 2013; <http://www.microlinkpc.com/sites/default/files/MicrolinkLoydsCaseStudy.pdf>

¹⁶⁹ Number of Magistrates with disabilities and variant prevalence rates

¹⁷⁰ Fixed costs identified by Lord Justice Auld, Morgan and Russell et al and Ministry of Justice identified earlier in the report

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Statutory Tort Liabilities (£m) by Impairment Group

Variant	R(Ed)		R(Ed)(V)		R(Ed)(V)(P)		R(Ed)(V)(P)(K)		R(Ed)(V)(P)(K)(A)						
	Actionable Statutory Torts	EM													
(D(r)) Failure to make reasonable adjustments.	120	3.68	209	1.99	111	3.41	193	1.80	37	2.8	1.14	0.64	87	2.67	1.52
(D(fr)) Failure to undertake an assessment of 'your needs'.	114	3.50	199	1.99	103	3.16	180	1.80	28	0.86	0.86	0.49	80	2.45	1.39
(D(f)) Being treated less favourably.	43	1.32	0.75	0.75	40	1.23	0.70	0.70	20	0.61	0.35	0.35	33	1.01	0.58
(D(C)) Consequences arising from your disability.	59	1.81	1.03	1.03	53	1.63	0.92	0.92	22	0.68	0.38	0.38	34	1.04	0.59
(D(d)) Direct Discrimination.	34	1.04	0.59	0.59	34	1.04	0.59	0.59	20	0.61	0.35	0.35	25	0.77	0.44
(D(i)) Indirect Discrimination.	43	1.32	0.75	0.75	42	1.29	0.73	0.73	20	0.61	0.35	0.35	29	0.89	0.51
(D(h)) Harassment.	37	1.14	0.64	0.64	33	1.01	0.58	0.58	25	0.77	0.44	0.44	32	0.98	0.56
(D(v)) Victimisation.	20	0.61	0.35	0.35	20	0.61	0.35	0.35	20	0.61	0.35	0.35	20	0.61	0.35

Statutory Tort Liabilities (£m) by (EP) Reasonable adjustment category

Variant	R(Ed)		R(Ed)(V)		R(Ed)(V)(P)		R(Ed)(V)(P)(K)		R(Ed)(V)(P)(K)(A)		R(Ed)(V)(P)(K)(A)(H)					
	Actionable Statutory Torts	EM														
(D(r)) Failure to make reasonable adjustments.	81	2.49	1.41	1.41	233	7.15	406	206	6.32	3.59	80	2.45	1.39	162	4.97	2.82
(D(fr)) Failure to undertake an assessment of 'your needs'.	74	2.27	1.29	1.29	187	5.74	326	169	5.19	2.95	70	2.15	1.22	135	4.14	2.35
(D(f)) Being treated less favourably.	30	0.92	0.52	0.52	107	3.28	1.86	1.03	3.16	1.80	52	1.60	0.91	81	2.49	1.41
(D(C)) Consequences arising from your disability.	40	1.23	0.70	0.70	103	3.16	1.80	0.96	2.95	1.67	48	1.47	0.84	62	1.90	1.08
(D(d)) Direct Discrimination.	26	0.80	0.45	0.45	84	2.58	1.46	0.84	2.58	1.46	31	0.95	0.54	53	1.63	0.92
(D(i)) Indirect Discrimination.	35	1.07	0.61	0.61	96	2.95	1.67	0.95	2.91	1.66	29	0.89	0.51	58	1.78	1.01
(D(h)) Harassment.	20	0.61	0.35	0.35	106	3.25	1.85	1.01	3.10	1.76	54	1.66	0.94	86	2.64	1.50
(D(v)) Victimisation.	20	0.61	0.35	0.35	59	1.81	1.03	0.20	0.61	0.35	28	0.86	0.49	44	1.35	0.77

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5.15 Productivity Comparative Analysis

Summary of analysis

235. The TPAD survey data provides consistent evidence that there is a gap between the effective and operational productivity associated with the deployment of reasonable adjustments to support Magistrates with disabilities.

236. The TPAD survey data provides an interesting array of results on the sample range of reasonable adjustments promoted by Magistrates with disabilities and comparatively with reasonable adjustments operationalised. The categories of reasonable adjustments compared were referenced from the Equality Act Code of Practices. The following observations are made:

1. The Respondents were requested to consider, by way of factual experience, which categories of reasonable adjustments are operationalised by HMCTS or the Judiciary to remove any detriment or to enhance their own productivity levels affected by that disability. Respondents were able to select more than one category as they deemed necessary.
2. Effective Productivity (EP), for comparative purposes, means a demand for reasonable adjustment services by Magistrates with disabilities categorised by the Equality Act Code of Practices; and Operational Productivity (OP) means the supply of reasonable adjustments services to Magistrates with disabilities categorised by the Equality Act Code of Practices.
3. The productivity differential or productivity opportunity, sometimes referred to in literature as the integrated productivity measurement, is the extent to which effective productivity has been realised or operationalised (OP). This can be expressed in terms of a percentage or units in hours, economic value or cost, quality quotient, social responsibility or by strategic objective. These measures can be used to drive up improvements in operational productivity in the delivery of reasonable adjustment services to Magistrates with disabilities and to comply more effectively with any legal duty to prevent incidences of unlawful disability discrimination occurring in the conduct of judicial business.
4. The TPAD survey substrate data analysis (recorded incidences reflecting time and cost) identified the following delivery-focused improvements in operational productivity to remove any detriment or to enhance magistrates with disabilities productivity levels affected by any deficit by category of reasonable adjustments referred to in the Equality Act Codes of Practices:
 - i. Making adjustments or adaptation to premises;
 - ii. Acquiring and modifying equipment;
 - iii. Training of colleagues, managers and co-workers;
 - iv. Modifying a policy, procedure, practice or criterion;
 - v. Transferring to another bench or court;
 - vi. Altering hours of working or the training received.
5. Overall analysis of the participants recorded incidences of effective and operationalised reasonable adjustments found that there was a productivity deficit of 39.8% (or a unitised ratio of £2.12:£1.28 in lost value for money) across all (concatenated) categories of reasonable adjustments referred to in the Equality Act Codes of Practices. When the variant EqA(y) was applied the productivity deficit marginally deteriorated to 40.7% (or a unitised ratio of £2.24:£1.33 in lost value for money) across all (concatenated) categories of reasonable adjustments referred to in the Equality Act Codes of Practices. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit improved to 26.9% (or a unitised ratio of £1.49:£1.09 in lost value for money) across all (concatenated) categories of reasonable adjustments referred to in the Equality Act Codes of Practices. Further, when the variant RA(y) were applied the productivity deficit improved to 25.8% (or a unitised ratio of £1.63:£1.21 in lost value for money) across all (concatenated) categories of reasonable adjustments referred to in the Equality Act Codes of Practices. Interestingly, when the concatenated variants RA(n*) were applied, the productivity deficit significantly deteriorated to 50.4% (or a unitised ratio of £2.63:£1.30 in lost value for money) across all (concatenated) categories of reasonable adjustments referred to in the Equality Act Codes of Practices.

Delivery-Focused Improvement Opportunities

237. Specifically, the following delivery-focused improvement opportunities exist to improve operational productivity with the current policy delivery, by categories of reasonable adjustments referred to in the Equality Act Codes of Practice:

1. Participants recorded potential incidences of a 45.9% productivity deficit and opportunity for performance improvement in the operationalised resources deployed for making of adjustments or adaptations to premises. Further, when the variant EqA(y) was applied the productivity deficit marginally deteriorated to 46.2%. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit improved to 40.03%. Further, when the variant RA(y) was applied the productivity deficit was removed to

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surplus or excess productivity of 82.2% on the resources deployed. Interestingly, when the concatenated variants RA(n*) were applied, the productivity deficit significantly deteriorated to 57.6%.

2. Participants recorded potential incidences of a 66.8% productivity deficit and opportunity for performance improvement in the operationalised resources deployed for acquiring or modifying equipment. Further, when the variant EqA(y) was applied the productivity deficit marginally improved to 64.3%. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit deteriorated significantly to 80.01%. Further, when the variant RA(y) was applied the productivity deficit was significantly improved to 24.99% on the resources deployed. Interestingly, by contrast, when the concatenated variants RA(n*) were applied, the productivity deficit significantly deteriorated to 74.46%.
3. Participants recorded potential incidences of an 87.67% productivity deficit and opportunity for performance improvement in the operationalised resources deployed for training of colleagues, managers and co-workers. Further, when the variant EqA(y) was applied the productivity deficit marginally improved to 85.74%. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit deteriorated significantly to 100% indicating no operational delivery at all. Further, when the variant RA(y) was applied the productivity deficit deteriorated to 100% on the resources deployed indicating no operational delivery at all. Interestingly, by contrast, when the concatenated variants RA(n*) were applied, the productivity deficit significantly improved to 72.71%.
4. Participants recorded potential incidences of a 57.47% productivity deficit and opportunity for performance improvement in the operationalised resources or policy deployed for modifying a policy, procedure, practice or criterion. Further, when the variant EqA(y) was applied the productivity deficit marginally deteriorated to 58.87%. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit improved to 49.91%. Further, when the variant RA(y) was applied the productivity was eliminated to 0%. Interestingly, by contrast, when the concatenated variants RA(n*) were applied, the productivity deficit significantly deteriorated to 33.57% but improved the productivity deficit in the group of participants as a whole.
5. Participants recorded potential incidences of a 57.47% productivity deficit and opportunity for performance improvement in the operationalised resources or policy deployed for modifying a policy, procedure, practice or criterion. Further, when the variant EqA(y) was applied the productivity deficit marginally deteriorated to 58.87%. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit improved to 49.91%. Further, when the variant RA(y) was applied the productivity deficit was eliminated to 0%. Interestingly, by contrast, when the concatenated variants RA(n*) were applied, the productivity deficit significantly deteriorated to 33.57% but improved the productivity deficit in the group of participants as a whole.
6. Participants recorded potential incidences of a 57.47% productivity deficit and opportunity for performance improvement in the operationalised resources or policy deployed for transferring a magistrate with disabilities to another bench or Court. Further, when the variant EqA(y) was applied the productivity deficit marginally deteriorated to 57.89%. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit deteriorated to 100% indicating no operational delivery at all. Further, when the variant RA(y) was applied the productivity deficit remained at 100% indicating no operational delivery at all. Interestingly, by contrast, when the concatenated variants RA(n*) were applied, the productivity deficit significantly deteriorated to 73.34%.
7. Participants recorded potential incidences of a 60.95% productivity deficit and opportunity for performance improvement in the operationalised resources or policy deployed for altering hours of working or the training received by magistrate with disabilities. Further, when the variant EqA(y) was applied the productivity deficit marginally improved to 59.98%. Conversely, when the concatenated variants EqA(n)(u) were applied the productivity deficit improved to 66.63%. Further, when the variant RA(y) was applied the productivity deficit remained at 100% indicating no operational delivery at all. Interestingly, by contrast, when the concatenated variants RA(n*) were applied, the productivity deficit significantly deteriorated to 78.54%.
8. It is notable that the productivity deficit and opportunity for performance improvement in the operationalised resources or policy deployed categorised as none made or not applicable has a higher operational productivity than the effective productivity across the variants. Mathematically, this is correct given effective productivity is a promotion of economic activities and operational productivity is the extent to which such activities have been deployed, if at all. Predictably, the effect is more significant when the RA(y) variant is applied which of course represents those participants who have received full implementation of reasonable adjustments.

Context and Discourse Analysis

238. Having regard to the TPAD data and the qualitative feedback on reasonable adjustments sought versus those deployed, there is reasonable evidence to consider that the current reasonable adjustment policy

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to support magistrates with disabilities is neither fit for purpose nor focused on productivity delivery and resources deployed to meet those most in need.

Reasonable Adjustments Policy: Effective and Operational Productivity Deficit

239. Wild, Slack and others (Wild, International Handbook of Productions and Operations Management, 1989) (Wild, Productions and Operations Management, 1995) (Slack, Brandon-Jones, & Johnston, Operations Management, 2013) (Chase & Aquilano, 2004) (Gendreau & Potvin, 2012 (2010 Edition)) (Russell & Taylor, 2014) defines the realisation of productivity performance as the proper management of cost over quality obtaining maximum effect of resources or minimising their loss, under-utilisation or waste. The extent of the utilisation of resource potential might be expressed in terms of proportion of available time, space, levels of activity and units of cost; each measure indicates the extent to which the potential or capacity of such resources are utilised is referred to as potential effective productivity. Measure of productivity achieved with failures or incomplete resource potential experienced in terms of actual time or levels of activity is referred to as operational productivity. The differential requires strategic organisational productivity objectives and integrated productivity measures to bridge the productivity gap either as a physical dimension of resource utilisation and or direct/indirect assessment of outcomes measuring resource utilisations metering loss or waste or failure to achieve. Measures of performance with adjusted productivity based objectives include:

1. Location and availability of facilities;
2. Layout of facilities;
3. Work methods and work standards;
4. Capability management and or capacity management;
5. Activity scheduling and planning;
6. Equipment and inventory management;
7. Quality management and reliability compliance;
8. Process design and policy delivery;
9. Design of work and jobs.

240. The balance of operational and effective productivity results in under-utilised resource or wasted productivity potential.

Context demand led productivity

241. Specifically, according to the Speaker of the House of Commons, disabled persons have a better understanding of any assistive needs necessary to enable them to work effectively and in comfort: more so than institutions attempting to stereotype the needs of individuals with disabilities against prescribed doctrines. Clearly, the ideal answer would be a collaborative-enterprise driven by customer-demand. For Magistrates with disabilities, the making of reasonable adjustments is both a duty owed to them by the Judiciary and a consequential removal of a barrier to effective participation. There are both social responsibility and economic productivity drivers which needs to be determined.

242. Further, implementation of reasonable adjustments is essential to perform the job and has a consequential benefit of being accepted by peers as an equal contributor. Conversely, according to this study, the judicial policy for reasonable adjustments implementation and decision-making is unclear, inaccessible or remote and does not appear to be customer-driven. Often, the determination is not final, or not communicated or is dictated by undefined criteria: what is required and what is necessary. It would appear that decisions are taken by persons generally unknown to the individual magistrate. This prevents proper accountability and challenge. Reasonableness criterion are not clearly defined, measurable and nor is the process of decision-making: in what Lord Justice Auld described as one of many 'mystifying' or 'archaic' aspects of magisterial justice – none of these practices allow for transparency and individual engagement in the modernised era. The Lord Chancellor's Advisory Committees have or appear to have no clear jurisdiction on the operationalization of reasonable adjustments, The Lord Chief Justice will not engage with an individual judicial office-holder on operationalization of the reasonable adjustments for Magistrates or the supporting Equality and Diversity Policy for the Judiciary of England and Wales. Interestingly, the published intranet link to a purported pilot judicial grievance procedure in the Equality and Diversity Policy for the Judiciary does not exist.

Benchmark effective productivity strategies

243. Provisions of reasonable adjustments to Magistrates with disabilities are arbitrated, or legally determined, by judicial organisational criteria, policy, practice and allocation of resources. It is to be noted that the judiciary is a public

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entity and in this respect has a public function. Different types or ranges of impairment can cause differential effects on a person's day to day activities and the variety of judicial office-holder activities principally because the nature and extent of disabilities vary from individual and impairment. The variation generates different operational and productivity needs, on an individual or adjustment category basis. Additionally, individual or organisational, requirements on resources or need for professional organisational or specialist advice may be generated. Parliament's Disability Assistance scheme, 'OFAS', and a similar proposition for a comparative scheme for the Judiciary, ['JOFAS'] would provide for an integrated model of enabled-disability services management based on the social model of disability. Such a development should be premised with services which encapsulate an integrated operationalization that is person-centred; and is productivity based including measures for: outreach; facilitation; assistance and a support network service. This would maximise magistrates' with disabilities judicial and community justice experience, life chances, judicial career, productivity and esteem in the discharge of their duties.

Business consequences of the failure to achieve improved effective productivity

244. Despite the observations of Leveson, LJ Auld's, Russell and Morgan et al and others, the survey results provide reasonable evidence to determine that productivity is often an under considered factor. The failure to make reasonable adjustments because of the total (national cumulative) components of productivity, or consequence of lower productivity, is often not easily identifiable or quantifiable. Examples of unquantified reduced disability-related human productivity include:

- Increased time (T) recurred to read or access information unformatted or unadjusted on paper or visual display affected by relevant impairment;
- Increased time (T) recurred by others to clarify or repeat facts or records of evidence unformatted or unadjusted on paper or visual display affected by relevant impairment;
- Increased time (T) recurred to access or retire for adjournments affected by relevant mobility impairment;
- Increased time (T) recurred by hearing oral information evidence unamplified affected by relevant impairment;
- Increased time (T) recurred by others to clarify or repeat facts or records of evidence unamplified affected by relevant impairment;
- Increased time (T) recurred by assimilation or re-assimilation of information, fact collection or records of evidence affected by relevant cognitive of comprehension impairment;
- Increased time (T) recurred by others to clarify or repeat facts or records of evidence affected by relevant cognitive of comprehension impairment recurred.

245. This is by no means an exhaustive list. Providing reasonable adjustments has a consequential business benefit on magistrates' with disabilities productivity including assistance provided by non-disabled colleagues, as well achieving or improving judicial equality and ensuring appraisal competence is met. Additionally, operational productivity (OP) can be increased in the thoughtful and economic development of institutional policies such as flexible sitting hours which can allow for maximisation of effort for those unable to be productive for an entire day. Adaptation of physical features such as the layout of courts and access to buildings can yield increases in productivity levels particularly reducing the distance and time for mobility impaired persons walking between Courts and retiring rooms, or including portable chairs directly outside court rooms to prevent the need to relocate to other parts of a building during short adjournments. The provision of auxiliary aids including such things as computer equipment, electronic formatted information and access to index searching for documents retrieval can increase productivity by reducing time lost through affected relevant impairment.

246. Targeted and productivity-related reasonable adjustments may require varying degrees of investment which can be recovered over the magisterial career. The cost benefit analysis of making reasonable adjustments needs to include the saving of cost (C) expressed in voluntary manpower, the value of equality equalisation and public benefit [Q], the reduced cost (C) associated with less time (T) expended following the making of adjustments, the increase in quality (Q) of decision making and saving of time (T) recurring from clarification or consultation with others.

247. This cost benefit analysis could amount to a significant business saving expressed in the survey results as the potential effective productivity. This reflects the extent of magistrates with disabilities perception on the level of adjustments needed to optimise performance productivity of current policy delivered on user encountered experience (operational productivity (OP)).

Productivity GAP Analysis

248. This survey indicated that within the recorded incidences of effective and operationalised reasonable adjustments found, there was an overall productivity deficit of 39.8% (or a unitised ratio of £2.12: £1.28 in lost value for money [L(vfm)]) across all categories of reasonable adjustments deployed referred to in the Equality Act Codes of Practices.

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Option Reasonable Adjustment Category ¹⁷¹ referred to in the Equality Act 2010 Code of Practices EP(n)OP(n)	EP	OP	EP:OP
	Response Percent	Response Percent	Productivity Gap
(1) Making adjustments or adaptation to premises	43.80%	23.70%	45.89%
(2) Providing information in accessible formats	10.00%	4.10%	59.00%
(3) Allocating some of the judicial team duties to another person	5.50%	0.90%	83.64%
(4) Transferring to another bench or Court	8.70%	3.70%	57.47%
(5) Altering your hours of working or the training you receive	10.50%	4.10%	60.95%
(6) Accessing different forms of training	7.80%	1.80%	76.92%
(7) Allowing a period of disability leave	10.00%	8.20%	18.00%
(8) Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)	5.50%	0.50%	90.91%
(9) Acquiring or modifying equipment	30.10%	10.00%	66.78%
(10) Providing a reader or interpreter	2.70%	0.90%	66.67%
(11) Providing supervision or other support	1.40%	0.90%	35.71%
(12) Employing a support worker to assist a disabled magistrate	3.20%	0.90%	71.88%
(13) Modifying disciplinary or grievance procedures	3.70%	0.50%	86.49%
(14) Modifying performance or appraisal arrangements	7.80%	0.50%	93.59%
(15) Modifying recruitment arrangements for opportunities in the bench	5.90%	0.90%	84.75%
(16) Training of colleagues, managers and co-workers	14.60%	1.80%	87.67%
(17) Modify a policy, procedure, practice or criterion	8.70%	3.70%	57.47%
(18) None made or not applicable	27.90%	59.40%	-112.90%
Other	4.60%	1.40%	69.57%
Productivity deficit	£2.12	£1.28	39.62%

Potential for business productivity benefits

$$p(r) = c_0 + \sum_{n>1 < 4363}^{\infty} \left(a_n \times \frac{ep}{op} \times T \right) \times V \sum L(vfm) \times Q$$

249. It's not possible to undertake a complete business case assessment for this Report. Some potential parameters have been identified. For illustrative purposes, the business case for making operational productivity savings by introducing a national cost-managed adjustment service¹⁷² applied as a unit cost per magistrate per case, per hour, per day, per year and per career funding and the prevention of loss of value for money is set out below, where :

- i. **p** is the potential cumulative and **r** is the realisation of benefits;
- ii. **c** is the fixed costs per case identified earlier in the business analysis section;
- iii. **n** is the range of magistrates with disabilities as defined in the sub-variants to a maximum of 4,363 magistrates with disabilities from the 31 March 2014 Magistrates in post of 21,706;
- iv. **a** is the cost per adjustment service applied as a unit cost per magistrate per case;
- v. **ep** is the effective productivity unit promoted;
- vi. **op** is the operational productivity utilised;
- vii. **t** is the time ordinarily in dealing with a case or business;
- viii. **v** is the value (within the same sub-variants of **n**) expressed as a loss of value for money;
- ix. **q** is the quality quotient which is an effect on the output of decision making.

¹⁷¹ There are 18 variables for OP or EP denoted as EP(n) or OP(n) where each variant n is the number listed in the table below representing a reasonable adjustment category (Questions 3,4,5 or 6) throughout the survey

¹⁷² Parliament's Disability Support Network; 2014; UK Parliament <http://www.w4mp.org/support-in-your-job/2010-guide-to-working-for-an-mp-for-new-staff/groups-which-staff-can-join/sports-and-social-groups/parliabl/>

¹⁷² Case Study: Lloyds Banking Group and Microlink; A Business Case for Making Reasonable Adjustments; April 2013; <http://www.microlinkpc.com/sites/default/files/MicrolinkLloydsCaseStudy.pdf>

Parliament's outreach funding programme; 2014; UK Parliament <http://www.access-to-elected-office-fund.org.uk/>

¹⁷² MP's Guide on Disability; 2014; RADAR <http://www.disabilityrightsuk.org/how-we-can-help/publications/mps-guide-disability>

¹⁷² Parliament's disability e-learning programme, 2014; UK Parliament <http://assets.parliament.uk/disability-awareness/>

¹⁷² Parliament's disability assistance programme; 2014; UK Parliament <http://parliamentarystandards.org.uk/IPSAMPS/Guidance/Pages/Disability.aspx>

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Investment and Recurring Savings

250. The average cost of making reasonable adjustments for a magistrate with a disability is not known. The commercial comparator referred to in the earlier Case Study¹⁷³ at Lloyds Banking Group Plc analysed 12,889 disability related reasonable adjustments cases and reports that the average total cost per case is £750 with an average of 26 days end-to-end to deliver the adjustments. The investment was distributed as follows:

Personal support	0.2%
Alterations to buildings	0.3%
Misc. physical adjustments	0.4%
Specialist desks	2.1%
IT software	2.2%
Telephony	6.3%
Specialist chairs	18.4%
IT hardware	19.4%
Non-physical adjustments	19.5%
Ergonomic items	31.2%

251. Investment by impairment group was distributed as follows:

Muscular / Skeletal	63%
Mental Illness	5.8%
Learning difficulty/disability	5.9%
Hearing	4.7%
Sight	4.7%
Other conditions	15.9%

252. For the purposes of illustrating a cost-benefits analysis, the £750 average cost is used and applied to magistrates with disabilities to ascertain the extent of the investment required to implement reasonable adjustments, on average, for all magistrates with a known disability. The following observations on investment required and return on investment are made:

- The Judicial Office specifies that there were 906 magistrates who self-identified as a disabled person or had a long term health problem. Using the comparator case cost, this would require investment of £679,500.00. Assuming the magistrate with disability sittings on average 23 days per year and provides 7 hours of manpower to deal with cases, this amounts to 161 hours per year or 9660 minutes. The total hours provided annually by magistrates with disabilities to judicial business, using this measure, amounts 145,866 hours. Using the survey results indicating an effective productivity deficit relating to those hours, we know that there is potential savings to be made with up to 58,054 hours arising from the identified overall 39.8% productivity gap because of a failure to make reasonable adjustments. We know from the industrial engineering analysis identified earlier by Russell and Morgan et al and the Ministry of Justice¹⁷⁴ that the average hourly cost per magistrate is £8.93 per hour per magistrate which amounts to potential productivity savings of £518, 621. This amounts to a cost of £4.66 per hour per magistrate over a year or the equivalent of £0.37 pence per hour over the average career of a magistrate with disabilities circa 12.7 years. Conversely, having made the investment in productivity, a saving of £3.56 per hour per magistrate with disabilities is realised over a year or the equivalency £45.15 per hour over the average career of a magistrate with disabilities circa 12.7 years.
- When we apply the EqA(y) variant to the Judicial Office magistrates with disabilities in post statistic, we can consider that perhaps only 729 of those magistrates can be defined as disabled within the meaning of a disabled person under the Equality Act 2010. Using the comparator case cost, this would require investment of £546,750. Assuming the magistrate with disability sittings on average 23 days per year and provides 7 hours of manpower to deal with cases, this amounts to 161 hours per year or 9660 minutes. The total hours provided annually by magistrates with disabilities to judicial business, using this measure, amounts 117,369 hours. Using the survey results indicating an effective productivity deficit relating to those hours, we know that there is potential savings to be made with up to 47,769 hours arising from the identified overall 39.8% productivity gap because of a failure to make reasonable adjustments. We know from the industrial engineering analysis identified earlier by Russell and Morgan et al and the Ministry of Justice¹⁷⁵ that the average hourly cost per magistrate is £8.93 per hour per magistrate which amounts to potential productivity savings of £426,738. This amounts to a cost of £4.66 per hour per magistrate over a year or the equivalent of £0.37 pence per hour over the average career of a magistrate with disabilities circa 12.7 years. Conversely, having made the investment in productivity, a saving of £3.64 per hour per

¹⁷³ Case Study: Lloyds Banking Group and Microlink; A Business Case for Making Reasonable Adjustments; April 2013; <http://www.microlinkpc.com/sites/default/files/MicrolinkLloydsCaseStudy.pdf>

¹⁷⁴ The strengths and skills of the Judiciary in the Magistrates' Courts; Ministry of Justice Research Series 9/11; November 2011. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217366/strengths-skills-judiciary.pdf

¹⁷⁵ The strengths and skills of the Judiciary in the Magistrates' Courts; Ministry of Justice Research Series 9/11; November 2011. Page 49 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217366/strengths-skills-judiciary.pdf

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magistrate with disabilities is realised over a year or the equivalency £46.18 per hour over the average career of a magistrate with disabilities circa 12.7 years.

- When we apply the scenario of reaching the ODI prevalence rate EqA(y) to the Judicial Office magistrates with disabilities in post statistic, we can consider that investment would be required to fund 4363 magistrates with disabilities, the disability falling within the definition of a disabled person under the Equality Act 2010. Using the comparator case cost, this would require investment of £3,272,250. Assuming the magistrate with disability sittings on average 23 days per year and provides 7 hours of manpower to deal with cases, this amounts to 161 hours per year or 9660 minutes. The total hours provided annually by magistrates with disabilities to judicial business, using this measure, amounts 702,443 hours. Using the survey results indicating an effective productivity deficit relating to those hours, we know that there is potential savings to be made with up to 279,572 hours arising from the identified overall 39.8% productivity gap because of a failure to make reasonable adjustments. We know from the industrial engineering analysis identified earlier by Russell and Morgan et al and the Ministry of Justice¹⁷⁶ that the average hourly cost per magistrate is £8.93 per hour per magistrate which amounts to potential productivity savings of £2,497,512. This amounts to a cost of £4.66 per hour per magistrate over a year or the equivalent of £0.37 pence per hour over the average career of a magistrate with disabilities circa 12.7 years. Conversely, having made the investment in productivity, a saving of £3.56 per hour per magistrate with disabilities is realised over a year or the equivalency £45.15 per hour over the average career of a magistrate with disabilities circa 12.7 years.
- When you apply the scenario of applying the unit cost of making reasonable adjustments per hour per magistrate across the 21,706 magistrates in post in England and Wales as 31 March 2014, assuming the average magistrate sits 23 days per year and provides 7 hours of manpower to deal with cases, this amount 161 hours per year or 9660 minutes. The total hours provided annually by magistrates with disabilities to judicial business, using this measure, amounts 3,493,666 hours at a circa cost of £16-19m per annum depending on which year you examine magistrates fixed costs. This amounts to a cost of £4.35 per hour per magistrate over a year or the equivalent of £0.34 pence per hour over the average career of a magistrate with disabilities circa 12.7 years. This means that overall effect on investing in magistrates with disabilities in one year would result in an increase £0.31 per hour per magistrate nationally, or a notional increase of cost amounting £0.03 per magistrate per hour over the 12.7 year career average of a magistrate with disabilities. This would of course also result in significant savings across the same unit cost. However, this not determinable because we cannot adjust lost productivity arising from the survey results on overall magistrates operating costs because we have no accurate way of knowing the industrial impact of the policy failure on magistrates without disabilities other than to extract the OP measure from the EP measure which is broadly indicative of a 18% saving.

The social benefits of improving representation of magistrates with disabilities

253. On 31 March 2014, there was a recorded under-representation of between 3,457 and 3,602 magistrates with a statutory protected characteristic of disability from benches across England and Wales. There are legal compliance, public sector equality representation, and organisational diversity and equality benefits to be derived from setting goals on recruiting and retaining magistrates with disabilities from a broad range of socio-economic backgrounds and with a broad range of impairments. The following recruitment and retention goals, by Advisory Committee, would revert the decline and what Lady Justice Hallett identified, through the Papworth Report, as a chronic under-representation of the number of people with disabilities in public life:

Region	Advisory Committee	Total Magistrates ¹⁷⁷	ODI Goal ¹⁷⁸	In Post ¹⁷⁹
London	Central and South London	897	180	31
	North and East London	963	194	40
	London West	1040	209	34
Midlands	Birmingham and Heart of England	798	160	36
	Black Country	558	112	31
	Derbyshire	411	83	22
	Leicestershire and Rutland	393	79	20
	Lincolnshire	305	61	8
	Northamptonshire	341	69	9
	Nottinghamshire	583	117	31
	Staffordshire	438	88	24
	Warwickshire	204	41	10
	West Mercia	684	137	29

¹⁷⁶ *The strengths and skills of the Judiciary in the Magistrates' Courts; Ministry of Justice Research Series 9/11; November 2011.*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/217366/strengths-skills-judiciary.pdf

¹⁷⁷ *Judicial Office; Statistical Publications series: Total Magistrates in Post; 31 March 2012;*

¹⁷⁸ *Office of Disability Issues and the %prevalence of statutory disability under the Equality Act 2010; referred to in the Equal Treatment Bench Book introduced by Lady Justice Hallett on March 2011*

¹⁷⁹ *Judicial Office; Statistical Publications series: Magistrates in Post; 31 March 2014; number of recorded magistrates with a self-declared disability*

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North East				
	Cleveland	346	70	17
	Durham	272	55	23
	Humber	410	82	22
	Northumbria	901	181	41
	North Yorkshire	344	69	15
	South Yorkshire	628	126	29
	West Yorkshire	1177	237	48
North West				
	Cheshire	452	91	23
	Cumbria	230	46	6
	Greater Manchester	1612	324	87
	Lancashire	1080	217	67
	Merseyside	769	155	45
South East				
	Bedfordshire	248	50	11
	Berkshire	333	67	12
	Buckinghamshire & Oxfordshire	541	109	16
	Cambridgeshire	267	54	10
	Essex	518	104	24
	Hertfordshire	446	90	14
	Kent	828	166	26
	Norfolk	353	71	12
	Suffolk	225	45	11
	Surrey	340	68	11
	Sussex	664	133	11
South West				
	Avon & Somerset	837	168	42
	Devon & Cornwall	603	121	32
	Dorset	286	57	17
	Gloucestershire	220	44	0
	Hampshire & Isle of Wight	723	145	33
	Wiltshire	242	49	10
Wales				
	Dyfed Powys	273	55	13
	Gwent	291	58	14
	Mid & South Glamorgan	489	98	29
	North Wales	397	80	11
	West Glamorgan	210	42	7

Potential for future liabilities and associated costs

254. The Judiciary of England and Wales are liable for any act and or omission of disability discrimination committed against a magistrate with a disability or any other protected characteristics which Lady Hallett refers to as statutory torts¹⁸⁰.

255. In 2011-2012, The President of the Tribunals reported¹⁸¹ that the average compensation payment for an employment tribunal award for disability discrimination (one or more head of claim including failure to make reasonable adjustments) amounted to £22,183 per claim and the median of £8,928 in all claims. The British Chambers of Commerce¹⁸² and others have routinely reported that a business funds legal costs of the same nature at an average of £8,500 circa per case.

256. In this survey the real potential for litigation (rpl) is denoted by the variant substrate RA(n*) and the variant substrates D(*). This has to be adjusted to take effect of the variants EqA(y), EqA(n) and EqA(u) and the Judicial Office disability prevalence JO, and the UK ODI disability prevalence ODI(UK)(England)(Wales) of roughly 20.1%. N is the number of disabled persons (frequency) entitled (meets the qualifying criteria as a disabled person under the Equality Act 2010) to bring a claim for disability discrimination within the TPAD dataset or as estimated by its relevant comparators. Therefore the following variants can be applied:

1. N(RA(n*)) [TPAD]
2. N(RA(n*)) [TPAD] adjusted by EqA(y)
3. N(RA(n*)) [TPAD] adjusted by EqA(n)

¹⁸⁰ Statutory Torts; Lady Justice Hallett; Chapter 1; Pages 1,2, 10 ; The Equal Treatment Bench Book; November 2013; http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/judicial-college/ETBB_all_chapters_final.pdf

¹⁸¹ Table 8; Compensation awarded by tribunals – cases with Disability Discrimination jurisdictions; Employment Tribunal Statistics; 2011-2012; Last available annualisation statistics in the publications series <https://www.gov.uk/government/collections/tribunals-statistics> https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/218497/employment-trib-stats-april-march-2011-12.pdf

¹⁸² Average cost of employer defending themselves; Adam Marshall; Director of Policy; British Chambers of Commerce; 2011; <http://www.britishchambers.org.uk/press-office/press-releases/fees-for-accessing-employment-tribunal-service-will-boost-business-confidence,-says-bcc11214.html>

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4. $N(RA(n^*))$ [TPAD] adjusted by $EqA(u)$
5. $N(RA(n^*))$ [TPAD] adjusted by $EqA(n)(u)$
6. $N(jo)$
7. $N(jo)$ adjusted by $EqA(y)$ [TPAD]
8. $N(jo)$ adjusted by $EqA(n)$ [TPAD]
9. $N(jo)$ adjusted by $EqA(u)$ [TPAD]
10. $N(jo)$ adjusted by $EqA(n)(u)$ [TPAD]
11. $N(odl)(uk)(England)(Wales)$ adjusted by $EqA(y)$ [TPAD]
12. $N(odl)(uk)(England)(Wales)$ adjusted by $EqA(n)$ [TPAD]
13. $N(odl)(uk)(England)(Wales)$ adjusted by $EqA(u)$ [TPAD]
14. $N(odl)(uk)(England)(Wales)$ adjusted by $EqA(n)(u)$ [TPAD]

257. This study found 436 incidences of actionable disability discrimination. The principle liability examined is the real potential for litigation across the variants identified which generates a potential average cost of £5m circa in the sample of 252 magistrates' examination of incidences of disability discrimination.

Reasonable adjustment policy: Integrated Productivity Strategy

258. Wild (Wild, International Handbook of Productions and Operations Management, 1989) (Wild, Productions and Operations Management, 1995), Slack and Chambers (Slack, Chambers, Harland, Harrison, & Johnston, 1998) (Slack, Brandon-Jones, & Johnston, Operations Management, 2013) set out a four-step approach to the formulation of productivity-based disability reasonable adjustments policy:

1. The identification of opportunities or threats overlooked or understated at the organisation together with the estimation of risk associated with each;
2. An assessment of the organisation's strengths and weaknesses (activity level, financial, legal, technical and personnel) to address the opportunities or risks;
3. The consideration of the personal values of the organisation's key leaders, major stakeholders, its managers and its effect on its human resources;
4. The identification and acknowledgement of the major social responsibilities and leadership role and the objectives to clarifying such;
5. The defining of effective productivity expressed in both economic policy and social responsibility obligations.

259. Slack and Chambers (Slack, Chambers, Harland, Harrison, & Johnston, 1998) highlight useful factors to influence the strategic role of the key players in refining improved operational productivity by:

1. Doing things right: providing customers with error-free goods and services known as the quality advantage;
2. Doing things fast: minimising operational time lost or effect on quality increasing availability of outward services or use of resources known as the speed advantage;
3. Doing things on time: creating the dependability advantage;
4. Being able to challenge what you do: vary or adapt activities tailoring services to individuals to enhance productivity levels known as the flexibility advantage;
5. Doing things cheaply or cost-effectively: delivering good value for the taxpayer or don't waste opportunity in the future to save money by failing to invest early known as the cost advantage;
6. Doing things within the correct supply chain management principles and performance known as the supply advantage.

Conceptual modelling or design in Judicial Policy and Deployment

260. Having regard to S149 of the Equality Act 2010 and the substantial reforms to the operational independence of the Judiciary under the transfer of powers and functions arising from the Constitutional reform Act 2005, the models put forward by Wild and Slack et al and Burtonshaw-Gunn (Wild, International Handbook of Productions and Operations Management, 1989) (Slack, Chambers, Harland, Harrison, & Johnston, 1998) (Slack, Brandon-Jones, & Johnston, Operations Management, 2013)(Burtonshaw-Gunn, 2010) suggest there is opportunity for the financial independence of the Judiciary to encompass a unique culture change to its organisational strategic framework to making and refining policy outcomes including:

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1. The aligning of judicial topology with economic policy and social responsibility objectives orientated towards legislative compliance or constitutional objectives;
2. The layout and workflow of the Judiciary and its key business functions;
3. A job design and process technology;
4. The design of products and services including concept generation, screening; preliminary design; evaluation and improvement, and prototyping and final design;
5. The operational policy outputs, measures, objectives, processes; procedures and performance accountability.

Chapter 6:

***Concluding Remarks and Recommendations
Framework***

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6.1 Overview

261. The magistrates with disabilities survey generated a snap shot of the perception of those who may have a protected disability characteristic specifically referred to within the disability discrimination measures and unlawful prohibited judicial conduct requirements set out in the Equality and Diversity Policy for the Judiciary, Code on Judicial Conduct and the Equality Act 2010. The measurement of perception, in these circumstances, provides a summative insight into the application of the policy (operationalization) for magistrates' with disabilities day-to-day experiences whilst sitting in court.

6.2 Overall Perception of the State of Policy

262. The existing judicial disability equalisation policies are limited to complying with the anti-discrimination office-holder provisions of the Equality Act 2010 and therefore are regarded by disability literature as an example of a cost-minimisation policy thus considered a 'Disability Legislation Compliance policy or model'. The research highlights actionable findings to improve the disability policy.

6.3 Learning from public sector and private sector benchmarks

263. The scope of judicial disability policy could be researched and developed further and expanded to provide a modernised and forward looking policy similar to the socially progressive approach adopted by the Speaker of the House of Commons for other public office-holders with disabilities and support staff. This could in turn lead to the provision of a bespoke judicial office-holders or magistrates with disabilities reasonable adjustments service operating with the capabilities referred to earlier under the benchmark comparators^{183 184 185 186 187 188}. The Commercial Comparator provided a good business case example of moving to service management approach.

6.4 Judicial outreach, facilitation, assistance and support services

264. Serious consideration should be given to the overhaul of existing disability equality policies and the production of a judicial framework strategy that embeds disability into judicial practice including: Judicial outreach, facilitation, assistance and support (JOFAS) components. This delivery framework should be an integrated model that both complies with S149 of The Equality Act 2010 and become a front-leader in disability equality with a proactive and positive agenda-setting disability policy for the Judiciary.

6.5 Delivery-Focused Improvements opportunities

265. The development of the judicial equalisation policies could encompass measureable (JOFAS) objectives including Delivery-Focused Improvement outcomes encompassing:

- a. Outreach work to target and recruit potential talent with disabilities to revert the downward trajectory on retention and to proactively address the chronic under-representation of persons with disabilities sitting as community volunteers in the discharge of summary justice.
- b. Facilitate the gap between the recruitment policy and the operationalization of reasonable adjustments by implementing proactive and specific measures to assess and prepare individual benches for the range of disabilities as a forward thinking approach in line with the public sector equality duty.
- c. Develop assistance policy and strategic funding to provide a reasonable adjustments service specifically for judicial office-holders (as opposed to current annex to HMCTS) which develops the competence of Magistrates and their specific needs both through a proactive facilitation approach. Develop a readiness to accommodate individual magistrates with individual needs. This could be led by the Judicial Office as a

¹⁸³ Parliament's outreach funding programme; 2014; UK Parliament <http://www.access-to-elected-office-fund.org.uk/>

¹⁸⁴ MP's Guide on Disability; 2014; RADAR <http://www.disabilityrightsuk.org/how-we-can-help/publications/mps-guide-disability>

¹⁸⁵ Parliament's disability e-learning programme; 2014; UK Parliament <http://assets.parliament.uk/disability-awareness/>

¹⁸⁶ Parliament's disability assistance programme; 2014; UK Parliament <http://parliamentarystandards.org.uk/IPSAMPs/Guidance/Pages/Disability.aspx>

¹⁸⁷ Parliament's Disability Support Network; 2014; UK Parliament <http://www.w4mp.org/support-in-your-job/2010-guide-to-working-for-an-mp-for-new-staff/groups-which-staff-can-join/sports-and-social-groups/parliabl/>

¹⁸⁸ Case Study: Lloyds Banking Group and Microlink; A Business Case for Making Reasonable Adjustments; April 2013; <http://www.microlinkpc.com/sites/default/files/MicrolinkLloydsCaseStudy.pdf>

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bespoke strategy with clear service delivery output as a managed-service: the Judicial Reasonable Adjustment Services (JRAS), with a clear channel of communication and the identification of decision-makers would help performance-manage delivery. Assistance should be primarily aimed at productivity and personal support. The approach would also bridge the policy gap of policy, practices and criterion affecting the conduct of magistrates with disabilities that are the exclusive jurisdiction of the Judiciary and the service delivered by HMCTS to the Judiciary for adaptations to premises or provision of equipment.

- d. Support magistrates with disabilities through a magistrate with disabilities staff support network and range of equality compliance assistance and welfare support that has recently been adopted by the paid judiciary.
- e. Consider mandatory equality training for all magistrates to develop their equality competence and the discharge of their equality obligations in criminal proceedings.
- f. Improve compliance with the Equality Act 2010 and in particular advancing the judicial statutory objectives in respect of s149 of the Equality Act 2010.

6.6 Disability Equality and Disclosure of Magistrates' Disability

266. The survey found that there was a variable range of experiences evidenced by magistrates with disabilities depending on whether the magistrate identified as being a disabled person within the meaning of the Equality Act 2010, or if the person did not know if they were protected by the Act. The strategic equality and diversity relevance of this finding is best demonstrated by examining the validity or value provided by the Judicial Office magistrates in post (2013-2014) statistical data. The possible implication being that 80.4% of the 906 magistrates recorded may be statutory disabled meaning. Consequently, there are potentially only 761 magistrates in post protected by the Equality Act 2010. Disability literature and corporate screening¹⁸⁹ often refers to under reporting of disabled persons in organisations due to a range of issues including:

- a. Their privacy concerns;
- b. The perception of the individual against unhelpful stereotypes,
- c. The lack of personal or corporate understanding of disability;
- d. The effect on career or salary;
- e. The potential for unfavourable treatment; or
- f. Their future prospects.

267. Moreover, persons with disabilities who require reasonable adjustments to maintain effective productivity would be unlikely to retain their Office without facilitation and assistance and thus would more likely be captured in corporate disability policy screening. The continued absence of appropriate services may prevent participation or access to opportunities for those magistrates with disabilities, cause hardship and effect individual and cumulative productivity.

6.7 Engaging under-representation of the community with disabilities within the magistracy

268. As things stand, both the Judicial Office magistrates in post statistics and the indicators of statutory disability prevalence from the survey results points to a national under-representation of magistrates with disabilities which is unacceptably low at circa 3.5% when compared to the Office of Disability Issues national statutory prevalence rate of 20.1%. Although it should be noted, in fairness, that the low judicial representation is broadly in line with other many other public institutions but it certainly indicates that the Magistracy is a lagger and not a leader in disability equalisation. In particular:

- a. According to the Judicial office magistrates in post statistics (2013), the following Advisory Committees were leaders on the retention of Magistrates with disabilities:
 1. Durham;
 2. Lancashire;
 3. Norfolk;
 4. Dorset;
 5. Merseyside; and
 6. Mid & South Glamorgan
- b. According to the Judicial office magistrates in post statistics (2013), the following Advisory Committees were ladders on the retention of Magistrates with disabilities:
 1. Sussex;

¹⁸⁹ *Financing of Reasonable Adjustments, Civil Service Policy; The Cabinet Office.* http://www.civilservice.gov.uk/wp-content/uploads/2011/09/reasonableadjustmentsguide1_tcm6-2237.doc

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2. Cumbria;
 3. Lincolnshire;
 4. Northamptonshire;
 5. North Wales;
 6. Buckinghamshire and Oxfordshire;
 7. Hertfordshire;
 8. Kent;
 9. London West;
 10. West Glamorgan; and
 11. Central and South London.
- c. Although the leaders are to be congratulated for doing more, there is far more work to be done to achieve a magistrates with disabilities target retention rate of 4363 magistrates in post nationally. The laggards would benefit from taking an enhanced strategic and inclusive recruitment policy such as advertising in resources such as 'disability now', 'disability jobsite', or developing partnerships with national (or if required local) disability organisations to increase disability representation on the bench.

6.8 Recommendations for Moving Forward

Road Map to increase representation

269. The Judiciary of England and Wales work with advisory committees, stakeholders, the Centre for Disability Studies at the University of Leeds, University of Lancaster, Sheffield Hallam University and other academia, disability organisations and magistrates with disabilities to create a Road Map and target for the gradual recruitment of 4,363 magistrates with disabilities under a new disability service framework. Retention of magistrates with disabilities should be representative of the Office of Disability Issues published prevalence of naturally occurring disability within the local community supported by formal adoption of a judicial social model of disability.

Judiciary and Service Level Agreements with HMCTS/Service Providers

270. The Judiciary to respond positively to our findings and work constructively to take forward proposals and make the necessary improvements to judicial disability equality policy and bring forward proposals for providing a new nationally funded disability reasonable adjustment service with a service level agreement and targets for end to end delivery of services to magistrates with disabilities.

Magistrates' Disability Steering Group

271. Develop the proposed judicial outreach, facilitation, assistance and support services strategy and deploy the necessary operations to achieve this through a Disability Steering Group as a top priority.

Implement Judicial Audit and Centralised Budget for disability services

272. Implement the recommendations of Sir Bert Massie, the retired Chair of the Disability Rights Commission, to undertake an audit of resources, implement practice of positive action and implement a centralised budget to fund bespoke disability services for magistrates.

Bespoke Reasonable Adjustments Service for Judicial office-holders

273. Develop a bespoke Judicial Reasonable Adjustments Service Strategy which addresses the main issues identified in this survey thematic report including:

1. Over-complex or inaccessible processes;
2. Poor HMCTS operational engagement;
3. Poor levels of effort and delivery by health and safety branches to operationalise all possible effective productivity solutions;

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4. Poor awareness and commitment from Bench Chairman, Justices' Clerks (and deputies) and the Judicial Office in complying with existing equalities policies;
5. Lack of organisational accountability or the absence of any service level agreements;
6. Length of time taken to get adjustments implemented or at all;
7. Address a chronic lack of knowledge and understanding of disability across the magistracy.

Create a service managed disability approach with end-to-end delivery process

274. Develop simple measurable objectives for an improved bespoke judicial reasonable adjustment service to
1. Simplify the process end to end – create a one stop shop for all physical adjustments (e.g. IT, telephony, loops, furniture, property, ergonomics and non-physical adjustments such as changes to practices, policy or criterion.
 2. Embrace private sector innovation by designing and deploying individual Reasonable Adjustment Agreements.
 3. Reduce reliance on Bench Chairman, Justices Clerks (or deputies), legal team managers, Health and Safety Branches and Operations Managers – involve staff but do not allow them to be the primary driving force.
 4. Create Service Level Agreements with accountability and remedy measures for poor performance.
 5. Speed up Implementation as a goal of reducing the end-to-end Service Level Agreements down to about 20 days.
 6. Reduce the costs of providing reasonable adjustments through:
 - a. Improved centralised-funding arrangements to prevent inconsistent local funding interfering with the service provided to individual magistrates (postcode lottery effect);
 - b. Addressing inexperienced service-partners;
 - c. Using online initial assessment forms,
 - d. Flexible assessment procedures including telephone;
 - e. Higher emphasis on implementing magistrates with disabilities own recommendations or requirements without an assessment;
 - f. Follow up of individuals 3 months after contact and annually thereafter;
 - g. Designing and implementing a non-physical adjustment policy providing clear guidance for colleagues and Line Managers on what is possible and reasonable, promoting consistency;
 - h. Implement Workplace Adjustment Agreements providing a summary of adjustments co-signed by the colleague and relevant judicial leadership authority than can be used as a 'passport' as they move between courts, courtrooms and jurisdictions.
 7. Measure and embody disability good practice in to judicial practice in all that we do to achieve the following:
 - a. Increase productivity;
 - b. Ensure magistrates with disabilities feel empowered and valued;
 - c. Improve future recruitment and retention;
 - d. Create a positive cultural change;
 - e. Lead the leaders in the execution of the Public Sector Equality Duty;
 - f. Ensure greater compliance with the Equality Act 2010;

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- g. Provide colleagues with disability awareness training, education and knowledge to improve awareness and competence in delivering disability equality obligations to magistrates with disabilities and outwardly to the public;
- h. Measure how well the Judiciary are performing;
- i. Improve internal procedures for identifying and resolving disability grievances.

6.9 Concluding remark

275. *Finally, there are reasonable grounds to believe that the existing policy for recruitment and retention of magistrates with disabilities is not fit for purpose if as a Magistracy we are committed to disability equal opportunities and believe the bench should reflect the society upon which we serve as community volunteers. So if 20% of the population of England and Wales may have a statutory disability, we should be aiming for 20% of magistrates to have a statutory disability. Those arguing that the Magistracy is not compelled to improve the current policy would fail to see the benefits of diversity and equality and risk bringing the magistracy into a scandal of under-representation scheduled undoubtedly to be a future Judicial Equality policy crisis¹⁹⁰ if the status quo is maintained and the lessons of the MacPherson Report are not heeded. The likely consequence of doing nothing is that the Judiciary as an institution for upholding the law will face allegations of being institutionally discriminate towards members of the community with a disability.*

¹⁹⁰ The Stephen Lawrence Inquiry, Report of an inquiry by Sir William MacPherson of Cluny (The MacPherson Report): Chapter 6. The Stationery Office. February 1999. Retrieved 6 January 2011.

Chapter 7:

References and Consultation Material

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7.1 Reviews

This is an important report and the findings deserve serious consideration from all those involved in the judiciary system. It is striking that, compared with the general population; there is considerable under-representation of magistrates with disabilities. The Judicial Office reports a representation rate of 3-4%. Even this low figure may be an overestimate since only 80% of those surveyed identified themselves as having a statutory disability. This raises the possibility that some of those recorded by the Judicial Office may not meet the statutory definition. Unfortunately, as the selection process for magistrates is not transparent we do not have the figures for the % of people with disabilities who apply to be JPs, or the % of those applicants who are interviewed or appointed. Other explanations for this under-representation are that those with disabilities are less aware of the magistracy, assume that they would not conform to the requirement 'to be in good health', or think that life is demanding enough without taking on an extra challenge. I wondered whether the lack of necessary adjustments (only 9% received full implementation) stemmed from JPs being regarded as 'volunteers', rather than holders of an important office. The cost of making these adjustments is not high and, as the report shows, there is considerable economic benefit in retaining a representative unpaid magistracy. Other benefits come from the wealth of knowledge and experience JPs bring to their judgements arising from their wide range of professional experience. Lady Justice Hallett has pointed out that the duty to make adjustments should be anticipatory. This would make it easier for those with disabilities to function effectively when appointed and also serve to encourage a greater range of applicants. I am privileged to know and work with colleagues with disabilities and with a smaller Bench most of us were aware of the sort of help from which individuals might benefit. With the new merged Benches this is unlikely to be the case. It should therefore be incumbent upon the Bench Chairman to inform all members of the Bench of any colleagues who would like their disabilities to be known, so that appropriate help could be offered and allowances made. This would do much to reduce discrimination arising from thoughtlessness or ignorance. One of the most shocking findings to emerge from this report was that colleagues with disabilities had been subject to unlawful victimisation or harassment (as high as 37.5% in some classes of impairment). This flies in the face of basic humanity and is completely contradictory to the ethos of a fair and unbiased judiciary. It is clear that disability awareness should be incorporated into our training. A wide range of impairments was reported from the survey. Twenty-five % of the magistrates surveyed had a hearing impairment. This is higher¹⁹¹ than that in the general population of people with impairments and could be because of the age distribution of magistrates, with 53% being older than 60. There is good technology to help with hearing impairment so it is surprising that 22% of this group reported failure to make reasonable adjustments. The group suffering the greatest discrimination was that with arthritis or orthopaedic impairments. This group reported unlawful failure to undertake an assessment of needs or to make reasonable adjustments as high as 50%. Unlawful direct discrimination was suffered by 50% of this group and indirect discrimination by 57%. Harry Smith Taylor is to be congratulated on such an extensive and interesting report. I hope that it will make the impact that it deserves both on the management of the judiciary and on all of our behaviour and attitudes towards our colleagues who face disabilities.

Professor Sandra File JP

In 1991 Parliament for the first time required disabled people to sit in a judicial-setting that being the Social Securities wing of the Independent Tribunal Service dealing with Disability Living Allowance and Attendance Allowance. This dispelled the myths that disabled people were unable to operate in a judicial setting. In 2001 saw the first appointments of severely disabled/blind people to be eligible to be magistrates. Now, some people believed that this was the end of discrimination within the judiciary and that the 20% of the working population that had previously been disbarred because of their disabilities would flock to become magistrates and thus end the imbalance and incorrect beliefs about the disabled. However, this was a false hope - and as can be seen from the report nowhere near 20% magistrates sitting on individual Benches have disabled people sitting playing an equal role in civic society. One of the greatest problems that exist is the lack of understanding about disability and the varied and conflicting training because of "Dogma" that exists in the Police Force, the Crown Prosecution, HM Courts & Tribunals Service, Magistrates, staff who are responsible for the buildings/contractors and all other groups directly and indirectly affecting the management and running of Courts & Tribunals Service. As long as these groups continue to receive "siloes" training where misnomers and ignorance affect the training and beliefs of those people receiving the training, the institutional discrimination that this creates will continue and will see as with the Sex Discrimination and the Race Relations issues, a long and complicated road to reaching true equality within the Magistracy, and the Magistrates Association, in line with the judicial oath. This report is an excellent foundation towards exposing the unintended, hidden and misunderstood issues of how the blind and disabled magistrate affects court business. Until the policy failures of individual organisations training people is ended there will always be discrimination that is unintentional but highly hurtful stopping disabled people from even applying let alone being selected or progressing within the Court system. It is recognised by all bodies that there are problems however until the attitude of 'we can only use a particular trainer or company' regardless of how bad they are at it or how obviously they fail to meet Equality Standards themselves; these matters will never be resolved. It is interesting to note that the Judicial College Panel of Experts launched a site at the beginning of the year providing contacts and information about people and organisations that can provide this training. Sadly it would appear that most of the judicial bodies are not taking up the opportunities to truly receive appropriate training because of the policies of their organisations to only use the prescribed policy on hiring trainers from the prescribed body or internally. Until there is an acceptance that because of 300 years of legal discrimination within the judicial system there is a total lack of understanding of these matters as can be seen from the

¹⁹¹ *Disability in the UK; Facts and Figures; 2013; Papworth Trust;*
<http://www.papworthtrust.org.uk/sites/default/files/Facts%20and%20Figures%202013%20web.pdf>

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number of disabled magistrates and how they are treated, the lack of prosecutions in relation to how children and adults who are disabled and have been abused are dealt with, the lack of prosecutions where a case has a disability bias, the number of issues surrounding safeguarding of children and adults and the number of cases that are not taken because the witness is disabled and somebody thinks “they won’t look a good witness”. Magistrates have an outward role in the safeguarding of vulnerable, disabled or young people who are involved in judicial proceedings. Magistrates must be trained in equality and equal opportunities for disabled people as well as training in the safeguarding of vulnerable adults.

This work is an excellent first step to shining a light on an issue that still makes the able bodied community nervous and fearing the unknown stops them from being happy to work with disabled colleagues. It is also interesting to note that there seems to be some misguided belief that volunteers e.g. magistrates as they are unpaid employees (zero hours contract) are not covered by the then Disability Discrimination Act, the Equalities Act, the Health & Safety at Work Act, providing Reasonable Adjustments and appropriate consultation. This is leading to the spending of significant amounts of public monies, sometimes in the tens of thousands of pounds, being spent upon building, furniture and technology that far from helping people with disabilities makes it more difficult, causes accidents, is unable to be operated by or just inconvenient. Where if a more appropriate acceptance of reasonable adaptation and working with disabled providers who are disabled, this would make Court accessibility in all its forms potentially far more efficient costing less and offering greater diversity and inclusion opportunities.

Ian Pearson JP

I very much support what you are trying to achieve. One thought that struck me (and it may be you cover it in the main report): is there anything we can learn from those areas where the representation of magistrates with disability is better than average?

The Baroness Lister of Burtersett

This report highlights a lack of support for Magistrates with visual and physical disability which could be partly addressed by a better understanding and application of how technology is already helping many Magistrates on the Bench. Magistrates with vision related impairment, orthopaedic or neuromuscular disability are dependent upon the use of technology to access the Magistrates’ Court Sentencing Guidelines and their own judicial archive and notes. Many disabled Magistrates use the Sentencing Guidelines App to provide access to Offence Guidelines and Bench Books with detailed offence indexes, search functions and court tools. For Magistrates with some visual disability, enabling features within iPad and Android devices provide access to zoom, colour inversion, increased font size including some spoken content. Magistrates with physical disabilities can have access to all Court Bench Books without needing to carry separate folders for different court types with assistive touch and customisable gestures helping users overcome physical restrictions. There is no formal information technology support and guidance provided to disabled Magistrates with many discovering assistive features by trial and accident. Magistrates need a support resource to advise about how best to customise devices for their unique and specific needs. The Sentencing Council should recruit a Magistrates’ disability working group to consult upon how guidelines may be improved by simpler layout and the reduced use of shaded areas and colour text.

Nick Harrington JP

I think it is an excellent report. If I move to the recommendation, the number of disabled who might be JPs will be influenced by a number of factors. For example the post might be unsuitable for people with severe learning disabilities and some people with mental health issues. Clearly the first assessment is whether people can do the job. However I note that it has been possible to recruit disabled to sit on social security tribunals and it might be worth looking at their processes. I think it important that in every case of capital expenditure an audit is undertaken to ensure it improves access for disabled people. There certainly needs to be a central fund for reasonable adjustments and this include resource to enable signers for deaf people. I do not know what measures are taken to recruit magistrates but it would be worth considering focusing on magazines etc. aimed at disabled people. There are also organisations promoting “high flying” disabled people such as Radiate which is part of Disability Rights UK. I think an important part of your recommendations is that this needs to be a marathon and not a sprint. Short term measures will fail. Increasing the number of disabled JPs will be achieved only by addressing all the issues you have identified.

Sir Bert Massie CBE DL; Chair of the Disability Rights Commission (now EHRC)

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This is an excellent report and indeed timely. If the magistracy is to retain the confidence of the public it is crucial that it remains representative of the people. A high proportion of the population have physical and/or mental disabilities and they have the right to participate equally in civic society. We need to know much more about how many disabled magistrates there are, but it is undoubtedly the case that disabled people are under-represented, as are younger people, those from black and ethnic minorities and many other groups. Harry Taylor's recommendations are spot on. We need to encourage more disabled people to apply to be magistrates, and support them in their work. Courts need to make reasonable adjustments, and magistrates themselves need training in equality and disability issues.

Penelope Gibbs

It's been pointed out by Harry Taylor that more needs to be done for the gradual recruitment of more magistrates with disabilities and to provide services to support them in their office. I think the best two ways are word of mouth, and through the various disabled charities. With the charities I run, it is the most effective way: a blind graduate comes to us, gets a good job and tells several others, who then come. But of course, as you've intimated, you have to find out what disabilities can actually do the job, for there will be many who simply can't. I suppose that's tricky with discrimination, but it's a fact that some people with disabilities simply couldn't do it. There are many magistrates in post with experience of disability and those skills and commitment could be nurtured. So perhaps charities like Scope, the RNIB, RNID, the MS Society or the MS charity and then there is the Macular Society for people losing sight in, usually, later life. But then it occurs to me that if you ask them to put a notice in their websites, you might have to put one in every charity and society or be accused of discrimination, even though many won't be suitable. But I don't see why you couldn't put a notice in the websites of many charities or societies, once you had thought of the disabilities they relate to. But it's a lot of work, and who would do it? I'm sure you know but look at the website of Equality Human Rights Commission which seems to deal well with disabled persons. A note to them might bring in ideas on how to go about recruiting more magistrates with disabilities and to ensure the approach is inclusive, and not exclusive, from the outset.

Michael Kenny JP

I can tell from this report that you are passionate about ensuring that Disabled People can play a full and active role in the Justice System of England and Wales. I believe that disabled people should, and must, have barriers removed so they can play a full and active role within civil society. I do wish you the best with this report, and wish you well in trying to get these recommendations implemented.

Dame Anne Begg MP

I have studied your excellent report which has really made me consider the place and contribution of magistrates with disabilities. Thank you so much for illuminating this aspect of our work. From my own limited experience of sitting with a partially sighted colleague, it was perfectly possible for her to participate fully in the proceedings which are largely oral and aural. When reading was necessary e.g. to read a Probation Service Report ("PSR"), I would read the salient passages to her. In fact this provided a beneficial process as it forced me to focus on important issues. In court my colleague was, without doubt, aware of matters which had escaped our sighted attention, as we were so busy writing notes. In this small example that I provide, I fully agree with your report.

Lady Julia Carter of Coles JP

The report by Harry Smith Taylor JP, entitled Magistrates with Disabilities Survey, represents an important development in understanding the contemporary social position of magistrates with disabilities in the wake of national legislation designed to eliminate discrimination in employment contexts. Given the importance of the judiciary being fully inclusive of disabled employees, and of it being representative of the general population served by this service, it is disappointing to read that discrimination still exists – in numerous ways - in this arena. As the survey demonstrates, there has certainly been some progress towards inclusion and equality in recent years, but much work remains to be done to create a level playing field, so that disabled and non-disabled magistrates have equal opportunities to serve. The report's recommendations point the way forward, and should be implemented without delay.

Professor Carol Thomas

Report into the Magistracy and Disability

Mr. Taylor has produced a milestone report which should make all Justices reflect on the issues of diversity and inclusivity in everything they do.

Sadly the reports conclusions do not come as a surprise but are a wake up call on how we recruit and retain magistrates with disability. It is our collective responsibility to ensure that magistrates with disabilities can fully participate in civil society. An early change stemming from this report should be mandatory equality and diversity training of all Magistrates on appointment as is required elsewhere in the Public Sector. We should bear in mind that equality is a core competency of Magistrates and forms a part of each and every appraisal.

Dr Howard Freeman JP

I have read this study in detail and I am very impressed with the research and its outcomes. I consider that the methodology is very rigorous, while the conclusions seem to be well justified and supported by compelling evidence. It is important that a piece of research like this is appropriately focused on the outcomes of the research and potential actionable findings going forward. With this in mind, it should be made easier to identify the key conclusions of the study early on, without the risk of swamping the central messages and the outcomes to be conveyed amidst the mass of data. It is an important and impressive study, and the need for more research is obvious.

Professor Colm O'Conneide, Professor of law with disability interest, University College London

This report shines a light on a topic, which for too long, has lurked in the shadows - the participation of disabled people in the justice system. The focus of this excellent report is the magistracy. There is a need for further research on related topics - including disabled judges, disabled jurors, disabled advocates and also disabled witnesses and litigants. Too little is still known about the experiences of such people in the justice system and the impact that their full participation within it has upon the shaping of societal values. The United Nations Convention on the Rights of Persons with Disabilities recognises a right to 'access to justice' for disabled people and requires governments of countries which have ratified it (including the UK) to encourage and enable disabled people to participate actively in the life of their communities, including in public office. This treaty also requires governments to ensure that relevant data and research is collected and disseminated on such topics. Mr. Taylor's initiative sets an example that deserves to be replicated and begins a process that must be carried through.

Professor Anna Lawson, Professor of law and disability, University of Leeds

This report into the magistracy and disability draws the unsurprising conclusion that people with disabilities are under represented on the bench. It is an unsurprising conclusion because other groups are also under represented, for example those from particular racial or ethnic groups, young adults and unemployed people. Magistrates sit both as judge and jury and draw their strength from the members being relatively local to the courts in which they sit and broadly representative of the people of the local area. It is a challenge to the magistracy to recruit members to maintain this strength. This report quantifies the extent of the under representation of those with disabilities and also attempts to address the barriers to participation which they face.

In regular paid employment an employer is positively encouraged to recruit people with disabilities, the government providing grant funds to enable support and adaptations over and above the reasonable adjustment which an employer is legally obliged to provide under the Equality Act. The report looks at the experience of disabled magistrates both in terms of how the minimum reasonable adjustments are met and their expectations of the courts service. Magistrates are volunteers not employees but nevertheless the courts service should plan to do better than meet the minimum legal requirements of reasonable adjustments.

From a political perspective all parties would support the objective of a broadly representative bench which includes those with disabilities. The question is the cost implications necessary to attract applicants from groups who are under represented on the bench. Challenging the preconceptions about disability is not a cost neutral policy and different parties will address this issue with different approaches.

The findings of this report will provide the ammunition needed to argue for a consistent national policy which will address the shortcomings identified. Recruitment and retention of a proportionate number of magistrates with disabilities is an achievable goal. This, in turn, will help underpin the prime objective of the magistracy, namely the sound administration of justice by magistrates who represent the community in which they serve.

The Lord Ponsonby of Shulbrede, Frederick Ponsonby JP

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7.2 List of Variables (variants)

All	No variants or substrates of data has been applied.
EqA	Those participants asked to identify as a disabled person under the Equality Act 2010 definition of a disabled person.
EqA(y)	Those participants who self-identified as being a disabled person under the Equality Act 2010 definition of a disabled person.
EqA(n)	Those participants who did not identify as being a disabled person under the Equality Act 2010 definition of a disabled person.
EqA(u)	Those participants who did not know if they were a disabled person under the Equality Act 2010 definition of a disabled person.
EqA(n)(u)	Concatenation of those participants under EqA(n) and EqA(u)
RA(y)	Those participants who recorded as having received full implementation of reasonable adjustments to meet their needs.
RA(n)	Those participants who recorded as having received no reasonable adjustments at all to meet their needs.
RA(na)	Those participants who recorded as having received not all reasonable adjustments to meet their needs.
RA(r)	Those participants who recorded as having been refused adjustments to meet their needs.
RA(no)	Those participants who recorded as having not been offered an assessment of reasonable adjustments to meet their needs.
RA(nr)	Those participants who recorded as having not requested an assessment of reasonable adjustments to meet their needs.
RA(o)	Those participants who recorded as having another explanation for not receiving reasonable adjustments to meet their needs.
RA(n*)	Those participants who recorded as having indicated not implementation of reasonable adjustments to meet their needs.
JO	Those magistrates with disabilities recorded by the Judicial Office as having a disability.
JO(EqA(y))	Those magistrates with disabilities recorded by the Judicial Office as having a disability adjusted by variant EqA(y).
ODI	Those persons with disabilities estimated by the Office of Disability Issues as having a disability across the UK.
I	Those magistrates with disabilities who recorded one or more impairments.
I(1)	Those magistrates with disabilities who recorded as experiencing hearing-related impairment.
I(2)	Those magistrates with disabilities who recorded as experiencing vision-related impairment.
I(3)	Those magistrates with disabilities who recorded as experiencing arthritis/orthopaedic related impairment.
I(4)	Those magistrates with disabilities who recorded as experiencing respiratory-related impairment.
I(5)	Those magistrates with disabilities who recorded as experiencing heart-related impairment.
I(6)	Those magistrates with disabilities who recorded as experiencing intellectual or mental related impairment.
I(7)	Those magistrates with disabilities who recorded as experiencing brain injury related impairment.
I(8)	Those magistrates with disabilities who recorded as experiencing speech-related impairment.
I(9)	Those magistrates with disabilities who recorded as experiencing communication-related impairment.
I(10)	Those magistrates with disabilities who recorded as experiencing vision neuromuscular-skeletal impairment.
I(11)	Those magistrates with disabilities who recorded as experiencing digestive-related impairment.
I(12)	Those magistrates with disabilities who recorded as experiencing reproductive-related impairment.
I(13)	Those magistrates with disabilities who recorded as experiencing blood-related impairment.
I(14)	Those magistrates with disabilities who recorded as experiencing cancer-related impairment.
I(15)	Those magistrates with disabilities who recorded as experiencing another-related impairment.
EP(1)	Those magistrates with disabilities who recorded as requiring making adjustments or adaptations to premises.
EP(2)	Those magistrates with disabilities who recorded as requiring provision of information in accessible formats.
EP(3)	Those magistrates with disabilities who recorded as requiring allocating some judicial team duties to another person.
EP(4)	Those magistrates with disabilities who recorded as requiring transferred to another bench or court.
EP(5)	Those magistrates with disabilities who recorded as requiring altering hours of working or training received.
EP(6)	Those magistrates with disabilities who recorded as requiring access to different forms of training.
EP(7)	Those magistrates with disabilities who recorded as requiring permission for a period of disability leave.
EP(8)	Those magistrates with disabilities who recorded as requiring giving, or arranging for training or mentoring.
EP(9)	Those magistrates with disabilities who recorded as requiring acquiring or modifying equipment.
EP(10)	Those magistrates with disabilities who recorded as requiring provision of a reader or interpreter.
EP(11)	Those magistrates with disabilities who recorded as requiring provision of supervision or other support
EP(12)	Those magistrates with disabilities who recorded as requiring employing a support worker to assist a disabled magistrate.
EP(13)	Those magistrates with disabilities who recorded as requiring modifying disciplinary or grievance procedures.
EP(14)	Those magistrates with disabilities who recorded as requiring modifying performance or appraisal arrangements.
EP(15)	Those magistrates with disabilities who recorded as requiring modifying recruitment arrangements for opportunities (bench).
EP(16)	Those magistrates with disabilities who recorded as requiring training of colleagues, managers and co-workers.
EP(17)	Those magistrates with disabilities who recorded as requiring modifying a policy, procedure, practice or criterion.

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EP(18)	Those magistrates with disabilities who recorded as requiring no reasonable adjustments or not applicable.
OP(1)	Those magistrates with disabilities who recorded as receiving making adjustments or adaptations to premises.
OP(2)	Those magistrates with disabilities who recorded as receiving provision of information in accessible formats.
OP(3)	Those magistrates with disabilities who recorded as receiving allocating some judicial team duties to another person.
OP(4)	Those magistrates with disabilities who recorded as receiving transferred to another bench or court.
OP(5)	Those magistrates with disabilities who recorded as receiving altering hours of working or training received.
OP(6)	Those magistrates with disabilities who recorded as receiving access to different forms of training.
OP(7)	Those magistrates with disabilities who recorded as receiving permission for a period of disability leave.
OP(8)	Those magistrates with disabilities who recorded as receiving giving, or arranging for training or mentoring.
OP(9)	Those magistrates with disabilities who recorded as receiving acquiring or modifying equipment.
OP(10)	Those magistrates with disabilities who recorded as receiving provision of a reader or interpreter.
OP(11)	Those magistrates with disabilities who recorded as receiving provision of supervision or other support
OP(12)	Those magistrates with disabilities who recorded as receiving employing a support worker to assist a disabled magistrate.
OP(13)	Those magistrates with disabilities who recorded as receiving modifying disciplinary or grievance procedures.
OP(14)	Those magistrates with disabilities who recorded as receiving modifying performance or appraisal arrangements.
OP(15)	Those magistrates with disabilities who recorded as receiving modifying recruitment arrangements for opportunities (bench).
OP(16)	Those magistrates with disabilities who recorded as receiving training of colleagues, managers and co-workers.
OP(17)	Those magistrates with disabilities who recorded as receiving modifying a policy, procedure, practice or criterion.
OP(18)	Those magistrates with disabilities who recorded as receiving no reasonable adjustments or not applicable.
D(ra)	Those magistrates with disabilities who recorded as experiencing incidences of disability discrimination at court by a failure to make reasonable adjustments.
D(fn)	Those magistrates with disabilities who recorded as experiencing incidences of disability discrimination at court by a failure to assess their need to make reasonable adjustments.
D(lf)	Those magistrates with disabilities who recorded as experiencing incidences of disability discrimination at court through being subjected to less favourable treatment.
D(c)	Those magistrates with disabilities who recorded as experiencing incidences of disability discrimination at court because of something about their disability.
D(d)	Those magistrates with disabilities who recorded as experiencing incidences of direct discrimination at court because of their disability.
D(i)	Those magistrates with disabilities who recorded as experiencing incidences of indirect discrimination at court related to their disability.
D(h)	Those magistrates with disabilities who recorded as experiencing incidences of disability discrimination at court by way of disability harassment.
D(v)	Those magistrates with disabilities who recorded as experiencing incidences of disability discrimination at court by way of disability victimisation.
D(na)	Those magistrates with disabilities who recorded as not applicable to disability discrimination.
J(c)	Those magistrates with disabilities who recorded as engaging assistance from a bench chairman in judicial conduct issues.
J(y*)	Those magistrates with disabilities who recorded as engaging judicial conduct related policies or provisions.
J(n*)	Those magistrates with disabilities who did not record as having engaged judicial conduct related policies or provisions.
(EP)-(OP)	The result of extract operational productivity from effective productivity.
OP/EP	The percentage extent to which operational productivity has been deployed against the measure of effective productivity.
P(r)	The potential realisation of business benefits following the implementation of effective productivity measures.
£RA	The case study benchmark cost of implementing the average cost of making reasonable adjustments for one person.

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7.4 Annex 1 – Consultation and Review

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The Right Honourable, Baroness D'Souza, Speaker of the House of Lords

The Lord Ponsonby of Shulbrede, Frederick Ponsonby JP; Co-Chair of All Party Parliamentary Group on the Magistracy

Sir Bert Massie, Former Chair of the Disability Rights Commission and Commissioner of the Equalities Commission

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Royal National Institute for Deaf and Hard of Hearing ("RNID")

SCOPE

The Commission for Equality and Human Rights

European Union Disability Forum

UK Disability Politics (Parliamentary)

All Party Parliamentary Group on Disability

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7.5 Annex 2 – Magistrates with Disabilities Survey Questionnaire

Welcome to the Magistrates with Disabilities Survey

The Judiciary under its Code of Conduct (Appendix 1-2) defines disability as protected characteristic within the meaning of the Equality Act 2010. This limits judiciary's ambition to advance the life chances of magistrates with disabilities to the specific judicial office protection provisions to prevent disability discrimination. This survey is being carried out by a disabled magistrate and a member of the Magistrates Association. Its purpose is to ascertain the degree of reasonable adjustments made to support magistrates in their role and how well the Judicial Disability Policy is performing. The survey is entirely anonymous and your identity can not be ascertained. Feel free to pass on the survey to colleagues who are not members of the MA.

Please tick the appropriate box next to your answer. Try to complete all questions.

***1. How many years have you been sitting as a magistrate?**

Number of years [] year(s)

***2. Do you consider yourself to be a disabled person as referred to by the Equality Act 2010?**

- Yes
 No
 Don't know

***3. The Albrecht Impairment Study; which of the following impairment types do you suffer from? You may select more than one.**

- Hearing related
 Vision related
 Arthritis Orthopaedic related
 Respiratory
 Heart
 Intellectual or mental related
 Brain injury related
 Speech
 Communication
 Neuromuscular Skeleto
 Digestive
 Reproductive
 Blood related
 Cancer
 Other

Other (please specify)

4. In relation to your role as a magistrate, has HMCTS conducted a work place assessment to ascertain what reasonable adjustments can be made to your Judicial (Public) Office arrangements to support your voluntary work in your community? Select the following that best describes your situation?

- Yes. Adjustments have been implemented in full.
 Yes. None of the adjustments have been implemented.
 Yes. Not all adjustments have been implemented.
 Yes. Reasonable adjustments were refused by HMCTS.
 No. No assessment was offered.
 No. No assessment was requested
 Other

Other (please specify)

***5. Experience of your own disability and needs as a disabled person. Which of the following types of reasonable adjustments or adaptations DO YOU BELIEVE are required to enable you to discharge your public office to the best of your ability or to retain you on the bench as a disabled magistrate? You may select more than one.**

- Making adjustments or adaptation to premises
 Providing information in accessible formats
 Allocating some of the judicial team duties to another person
 Transferring to another bench or Court
 Altering your hours of working or the training you receive
 Accessing different forms of training
 Allowing a period of disability leave
 Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)
 Acquiring or modifying equipment
 Providing a reader or interpreter
 Providing supervision or other support
 Employing a support worker to assist a disabled magistrate
 Modifying disciplinary or grievance procedures
 Modifying performance or appraisal arrangement
 Modifying recruitment arrangements for opportunities in the bench
 Training of colleagues, managers and co-workers
 Modify a policy, procedure, practice or criterion
 None or not applicable
 Other (please specify)

***6. Agreed HMCTS reasonable adjustments in place. Which of the following types of reasonable adjustments or adaptations to your public office arrangements have been regularly put in place? You may select more than one.**

- Making adjustments or adaptation to premises
 Providing information in accessible formats
 Allocating some of the judicial team duties to another person
 Transferring to another bench or Court
 Altering your hours of working or the training you receive
 Accessing different forms of training
 Allowing a period of disability leave
 Giving, or arranging for, training or mentoring (whether for the disabled magistrate or any other person)
 Acquiring or modifying equipment
 Providing a reader or interpreter
 Providing supervision or other support
 Employing a support worker to assist a disabled magistrate
 Modifying disciplinary or grievance procedures
 Modifying performance or appraisal arrangement
 Modifying recruitment arrangements for opportunities in the bench
 Training of colleagues, managers and co-workers
 Modify a policy, procedure, practice or criterion
 None or not applicable
 Other

Other (please specify)

***7. Disability Discrimination in Judicial Office. The Equality Act 2010 prohibits unlawful disability discrimination against a public office holder. Have you ever suffered any of the following forms of discrimination in your work as a magistrate as a result of your disability? You may select more than one.**

- Failure to make reasonable adjustments
 Failure to undertake assessment of your needs
 Being treated less favourably
 Consequences arising from your disability
 Direct discrimination
 Indirect discrimination
 Harassment
 Victimisation
 Not applicable
 Other

Any other detriment arising from your disability

***8. Code on judicial conduct - dignity at work. As a result of your work as a magistrate with a disability, have you ever had to complain to about a judicial colleague regarding their conduct because of a reason connected to your disability, or as a result of a loss of your dignity at work related to your disability.**

- Yes. I complained to the bench chairman of the local justice area.
 Yes. I complained to the Advisory Committee to The Lord Chancellor.
 Yes. I complained to The Lord Chief Justice
 Yes. I exhausted the complaints procedure and remained unresolved.
 Yes. I exhausted the complaints procedure and was resolved
 Yes. I had to commence legal proceedings or action
 No
 Other (please specify)

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<div style="border: 1px solid black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <p>9. Please indicate if you have knowledge and understanding of the following disability related provisions. You may select more than one.</p> <p><input type="checkbox"/> The Equality Act 2010 - duty to make reasonable adjustments for office holders</p> <p><input type="checkbox"/> The Equality Act 2010 - protection from less favourable treatment</p> <p><input type="checkbox"/> The Equality Act 2010 - protection from disability harassment</p> <p><input type="checkbox"/> The Equality Act 2010 - protection from victimisation</p> <p><input type="checkbox"/> The Equality Act 2010 - protection from direct or indirect disability discrimination</p> <p><input type="checkbox"/> The Code on Judicial Conduct - the dignity at work statement</p> <p><input type="checkbox"/> The Code on Judicial Conduct - the annexes on the Equality Act 2010</p> <p><input type="checkbox"/> Grievance procedure to complain to your local Advisory Committee disability discrimination</p> <p><input type="checkbox"/> The Judicial Officer Holder Reasonable Adjustments Policy</p> <p><input type="checkbox"/> The Disability Law Service</p> <p><input type="checkbox"/> HMCTS work place assessment procedures to obtain reasonable adjustments</p> <p><input type="checkbox"/> None of the above</p> <p><input type="checkbox"/> Would you like to make any other comment</p> <p>Other (please specify)</p> <div style="border: 1px solid black; width: 100%; height: 20px; margin-top: 5px;"></div>	<div style="border: 1px solid black; width: 100%; height: 20px; margin-bottom: 5px;"></div> <p>10. Your disability discrimination experience or comments on the Judiciary's recruitment and retention of Magistrates with disabilities.</p>
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Thank you for taking part in the survey. The data is totally anonymous and the results will be published via the Magistrates Association in due course.

**Please post your form to
 Magistrates with disabilities survey
 The Magistrates Association
 28 Fitzroy Square
 London
 W1 6DD**