

Reasonable Adjustments in Vocationally Related Qualifications (VRQs) and National Vocational Qualifications (NVQs) to allow access to assessments.

1. Which qualifications are covered by this document?

This document relates specifically to vocationally related qualifications (VRQs) and National Vocational Qualifications (NVQs).

2. Who is protected under the DDA 1995?

The Act will protect those people who can establish that they are disabled under the terms of the DDA 1995.

For further information on which candidates are protected under the DDA 1995, centres should consult the *Guidance on matters to be taken into account in determining questions relating to the definition of disability*, DRC updated 1 May 2006, Centres and Training Providers should also read the DRC Code of Practice, only extracts of which are quoted within this document.

Candidates who are not disabled under the terms of the Act may still be eligible for access arrangements.

3. What are the Duties of Qualifications Bodies?

Chapter 8 of the DRC Code of Practice interprets the legislation as it applies to Qualifications Bodies. The main issues relate to direct discrimination, disability related discrimination, reasonable adjustments and competence standards. Centres should take note of the extracts quoted from the following sections:

8.10 Treatment of a disabled person amounts to **direct discrimination** if:

- it is on the grounds of his disability;
- the treatment is less favourable than the way in which a person not having that particular disability is (or would be) treated; and
- the relevant circumstances, including the abilities, of the person with whom the comparison is made are the same as, or not materially different from, those of the disabled person.

8.11 Less favourable treatment of a disabled person may be unlawful under the Act even if it does not amount to direct discrimination. This will be the case if it amounts to **disability – related discrimination** instead. As explained at paragraph 4.25, this is less favourable treatment which is for a reason related to the person's disability. However, unlike treatment which amounts to direct discrimination (and which is therefore incapable of justification) a qualifications body's treatment of a disabled person does not amount to disability-related discrimination if the body can show that it is justified. The general circumstances in which this may be possible are explained in Chapter 6. However, special rules apply in respect of justification of less favourable treatment in the application of a competence standard (see paragraphs 8.35 to 8.40).

- 8.27 **[s14A (5)]** The Act states that a competence standard is an academic, medical, or other standard applied by or on behalf of a qualifications body for the purpose of determining whether or not a person has a particular level of competence or ability.
- 8.28 Qualification bodies are likely to impose various requirements and conditions upon the conferment of a professional or trade qualification.
- 8.32 Special rules apply in relation to the application of a competence standard to a disabled person by or on behalf of a qualifications body. The effect of the Act is that:
- there is no duty to make reasonable adjustments in respect of the application of a competence standard; and
 - in the limited circumstances in which less favourable treatment of a disabled person in the application of such a standard may be justified, justification is assessed by reference to a special statutory test (see paragraph 8.36).
- 8.36 **[s14A (3)]b** To the extent that it does not amount to direct discrimination, the Act says that, where the application of a competence standard to a disabled person amounts to less favourable treatment of him for a reason which relates to his disability, that treatment is justified if, but only if, the qualifications body can show that:
- the standard is (or would be) applied equally to people who do not have his particular disability; and
 - its application is a proportionate means of achieving a legitimate aim.

4. Taking Advice from the Awarding Body about Competence Standards

There are subject specific issues relating to VRQs and NVQs where the centre may need to seek particular advice from the awarding body issuing the qualification.

In the majority of qualifications, a wide range of reasonable adjustments will be available. However, there are some important exceptions where the competence standards would be invalidated if an adjustment was made. In particular, reasonable adjustments to VRQs and NVQs that carry a "licence to practise" need to be considered so as not to invalidate 'the licence'.

5. Advising prospective candidates

It is vital that centres recruit with integrity onto VRQ and NVQ qualifications. Centres must ensure that learners have the correct information and advice on their selected qualifications and that the qualifications will meet their needs. The recruitment process should include the centre assessing each potential learner and making justifiable and professional judgements about the learner's potential to successfully complete the assessment and achieve the qualification.

Such an assessment must identify, where appropriate, the support that will be made available to the learner to facilitate access to the assessment.

Where the recruitment process identifies that the learner may not be able to demonstrate attainment and thus gain achievement in all parts of the assessment for the selected qualification, this must be communicated clearly to the learner. A learner may still decide to proceed with studying a particular qualification and not be entered for all or part of the assessment.

Centres are advised to ensure that learners are aware of:

- the range of options available, including any reasonable adjustments that may be necessary, to enable the demonstration of attainment across all of the required assessments; and
- any restrictions on progression routes to the learner as a result of not achieving certain outcomes.

6. National Vocational Qualifications

NVQs accredit competence in the workplace against National Standards and an approved assessment strategy. Any reasonable adjustment must reflect the normal working practice of an employee working within the occupational area.

Learners may, however, use mechanical, electronic and other aids in order to demonstrate competence so long as the aids are generally commercially available and can feasibly be used on employers' premises. The following adaptations might be considered for the purposes of facilitating access, as long as they do not impact on the competence standards being tested:

- adaptation of the physical environment for access purposes;
- adaptation to equipment.

Learners should be fully involved in any decisions about adjustments/adaptations to ensure that individual needs can be met whilst still bearing in mind the specified assessment criteria for a particular qualification.

7. How can centres or training providers apply for reasonable adjustments for external assessments?

Centres or training providers who wish to apply for a reasonable adjustment in VRQs or NVQs should make an application to the relevant awarding body at least six weeks before the date of the series in which the examination is to be taken.

To apply for modified enlarged papers, Braille papers, modified language papers or papers adapted for the purpose of using a recording, please submit Form VRQ/VQ/EA no later than ten weeks before the date of the assessment. Centres may provide an A3 enlargement of non-secure materials without requesting the permission of the awarding body. Secure question papers must not be opened early without permission.

Each application will be considered individually and the response will relate primarily to the effect the requested adjustment might have on the competence or ability being tested in the qualification.

Some adjustments may not be considered reasonable if they involve unreasonable costs or timeframes or affect the security and integrity of the qualification itself. For example, Braille papers cannot be produced at short notice. Adjustments must not put in jeopardy the health and well being of the candidate or any other person. (See DRC Code of Practice section 5.17.)

8. Applying reasonable adjustments to internal assessment

For qualifications which are internally assessed centres do not need to apply to the awarding body. However, centres must make reasonable adjustments which are in line with the awarding body's policies. All reasonable adjustments made in relation to internal assessments must be recorded on Form VRQ/VQ/IA and held on file within the centre for inspection purposes.

Reasonable adjustments must not, however, affect the reliability or validity of assessment outcomes nor must they give the learner an assessment advantage over other learners undertaking the same or similar assessments.

It is recommended that centres discuss the application of reasonable adjustments to internally assessed units with their external verifier for the unit(s) concerned.

9. Candidates who are not covered by the DDA

Reasonable adjustments are available for those who are disabled under the terms of the DDA 1995. There may be other candidates, with learning difficulties, for instance, who may not be covered by the Act but who may need an access arrangement.

It is the responsibility of the Head of Centre/Principal/CEO (or designated nominee) to ensure that any access arrangement implemented by the centre on behalf of the learner is based on firm evidence of a barrier to assessment. If further clarification is required in relation to the application of a reasonable adjustment you should contact the respective awarding body.