Disproportionate Burden Cheat Sheet

Within the regulations there is a clause that allows you to claim a disproportionate burden allowing you to avoid meeting the regulations. It has been made clear that this claim should not be made lightly as an attempt to dodge responsibility and you will have to thoroughly prove the claim with evidence. In this document we combined the best information we could find on proving disproportionate burden from the UK regulations and associated EU regulations.

# What to take into account

1. In undertaking a disproportionate burden assessment, a public sector body must take account of relevant circumstances, including—
	1. the size, resources and nature of the public sector body; and
	2. the estimated costs and benefits for the public sector body in relation to the estimated benefits for persons with disabilities, considering the frequency and duration of use of the specific website or mobile application.

# Criteria to carry out and document the assessment

1. Ratio of the net costs of compliance with accessibility requirements to the overall costs (operating and capital expenditures) of delivering the service or product. Elements to use to assess the net costs of compliance with accessibility requirements:
	1. one-off organisational costs to take into account in the assessment:
		1. costs related to additional human resources with accessibility expertise;
		2. costs related to training human resources and acquiring competences on accessibility;
		3. costs of development of a new process for including accessibility in the product development or service provision;
		4. costs related to the development of guidance material on accessibility;
		5. one-off costs of understanding the legislation on accessibility;
		6. costs related to the design or implementation of the accessibility features of the product or service;
	2. on-going production and development costs to take into account in the assessment:
		1. costs related to testing the product or service for accessibility;
		2. costs related to establishing documentation.
2. The estimated costs and benefits for the organisation in relation to the estimated benefit for persons with disabilities, taking into account the amount and frequency of use of the specific product or service.
3. Ratio of the net costs of compliance with accessibility requirements to the net turnover of the organisation.

# After the Assessment

1. If, following the assessment, a public sector body determines that compliance with the accessibility requirements would impose a disproportionate burden, it must—
	1. explain in its accessibility statement the parts of the accessibility requirements that could not be complied with; and
	2. where appropriate, provide accessible alternatives to documents on the public sector body’s website or mobile application.

# Other items from EU regulations

These items below have been adapted from EU regs descriptions to make more sense in a UK context. These are not part of the UK regulations but something to bear in mind that reflects best practice and alignment with EU expectations.

1. The accessibility requirements apply to the extent that they do not introduce a significant change in an aspect or feature of a product or service that results in the alteration of the basic nature of the product or service.
2. The burden shall not be deemed disproportionate where it is compensated by funding from other sources than the public sector body’s own resources, whether public or private.
3. Where a public sector body has used the exception of disproportionate burden for a specific product or service it shall notify the Government Digital Service. The notification shall include the assessment carried out by the public sector body. Microenterprises are exempted from this notification requirement but must be able to supply the relevant documentation upon request from a relevant market surveillance authority.