# Duty to Accommodate Decision Toolkit




## How To Use This Duty To Accommodate Decision Toolkit

Most HR managers do not struggle with the *idea* of accommodation. They struggle with the moment. The moment an employee says something vague but concerning. The moment a manager forwards an email and asks, “Do we have to do this?” The moment HR realizes that what looked like a performance issue is actually something else. The moment where saying the wrong thing, asking the wrong question, or failing to document the right step quietly creates human rights exposure.

This toolkit exists for that moment.

It is designed to be pulled off the shelf when an accommodation issue lands on your desk and you need to make a decision that is fair, compliant, defensible, and realistic for your organization.

**This is not a legal textbook. It is not a policy manual. It is not written for lawyers.**

It is written for HR managers who are expected to make judgment calls in real time, often with incomplete information, while balancing legal risk, operational realities, and human relationships.

### What This Toolkit Is And Is Not

This toolkit is a **decision-support tool**. It is meant to help you think through accommodation issues systematically and document your reasoning in a way that reflects how Canadian human rights law actually works.

It is not meant to replace legal advice in high-risk or complex cases. Instead, it is designed to reduce the number of situations that ever escalate to that point.

If you use this toolkit consistently, you should be able to:

- Identify when the duty to accommodate has been triggered
- Ask for appropriate information without violating privacy or human rights boundaries
- Explore accommodation options in good faith
- Assess undue hardship using the correct legal lens
- Document your decisions in a way that stands up to scrutiny months or years

later
- Coach managers through accommodation conversations without increasing risk

Just as importantly, this toolkit helps you avoid the most common accommodation mistake employers make in Canada: assuming that good intentions will protect them.

They will not.

## Why Accommodation Decisions Fail In Practice

Most accommodation complaints are not driven by bad faith or malicious employers. They are driven by process failures.

Human rights tribunals across Canada repeatedly say the same thing in different ways:

- The employer did not recognize the duty soon enough
- The employer focused on what the employee asked for instead of what the law required
- The employer relied on assumptions instead of evidence
- The employer failed to explore alternatives
- The employer did not document its reasoning
- The employer treated accommodation as discretionary

In many decisions, tribunals acknowledge that the employer believed it was acting reasonably. That belief does not carry legal weight if the process itself was flawed.

This toolkit is designed to keep you out of that trap by slowing the decision down just enough to make it defensible, without paralyzing operations.

## When To Use This Toolkit

You should use this toolkit any time:

- An employee requests a change to their work because of health, family, or personal circumstances
- A manager raises concerns about attendance, productivity, or behavior that may be linked to a protected ground
- You receive medical information or a note that includes restrictions or limitations
- A performance issue does not improve despite coaching and discipline
- An employee discloses a diagnosis, condition, or caregiving responsibility
- You are unsure whether the duty to accommodate applies

One of the most dangerous moments for employers is uncertainty. When HR is unsure, managers tend to fill the gap with instinct, precedent, or convenience. That is when exposure is created.

This toolkit gives you a structured way to move forward even when the facts are incomplete.

## How This Toolkit Is Structured

Each section of this toolkit is designed to mirror the way accommodation decisions actually unfold in the workplace. You will move through:

- Identifying the trigger
- Gathering information
- Assessing options

- Evaluating undue hardship
- Making and documenting a decision
- Reviewing and reassessing as circumstances change

You do not need to read this toolkit cover to cover in one sitting. In fact, most HR managers will not. It is designed so you can jump to the section you need, use the tool provided, and move forward with confidence.

Several sections include:

- Decision trees to guide yes or no questions
- Checklists to ensure you are not missing key steps
- Templates to document decisions and conversations
- Practical examples drawn from real tribunal decisions
- Common mistakes and how to avoid them

## The Legal Context You Need To Know Up Front

Before you use any of the tools in this kit, there are a few foundational principles that apply across Canada. These principles come from Supreme Court of Canada decisions and are reflected in every provincial and federal human rights regime.

You do not need to memorize case names. You do need to understand how these principles shape your obligations.

First, the duty to accommodate is proactive. Employers are required to take steps to remove barriers once they know or ought reasonably to know that a protected ground may be engaged. Waiting for perfect information or a formal request is often a mistake.

Second, accommodation is about **functional limitations**, not diagnoses. You are entitled to understand what an employee can and cannot do. You are rarely entitled to know why.

Third, accommodation is a process, not a one-time decision. Even a reasonable accommodation can become unreasonable if it is not reviewed as circumstances change.

Fourth, undue hardship is a high threshold. Cost, health, and safety are legitimate considerations, but inconvenience, morale, and administrative burden almost never are.

Finally, intent does not matter. Tribunals do not ask whether the employer meant well. They ask whether the employer followed a reasonable, evidence-based process.

This toolkit is built around those principles.

## Who Should Use This Toolkit

This toolkit is written primarily for:

- HR managers and directors
- HR business partners
- Senior HR generalists
- People leaders with HR accountability
- Executives who sign off on accommodation decisions

It is also useful as a coaching tool for managers who are involved in accommodation discussions but do not understand the legal framework behind them.

Many organizations make the mistake of shielding managers from accommodation decisions entirely. That often leads to confusion, resentment, and inconsistent messaging. Used properly, this toolkit can help HR support managers

without exposing the organization to unnecessary risk.

## A Note On Consistency And Precedent

One of the quiet fears that often drives accommodation resistance is the idea of precedent.

HR managers worry that if they say yes once, they will have to say yes forever. Or that one accommodation will open the door to dozens more.

Canadian human rights law does not work that way.

What matters is whether each decision is assessed individually, based on the employee’s circumstances, the role, and the organization’s capacity at that time. Consistency matters, but blind consistency can be just as dangerous as inconsistency.

This toolkit will help you document why a particular accommodation was reasonable in a particular context, which is exactly what tribunals expect to see.

## How This Toolkit Supports Compliance And Culture

Accommodation decisions are not just legal decisions. They are cultural signals.

Handled well, they build trust and credibility. Handled poorly, they create resentment, disengagement, and formal complaints.

This toolkit is designed to help you do both at the same time:

- Meet your legal obligations
- Maintain operational clarity
- Treat employees with dignity
- Protect the organization

It does not assume that every accommodation request is valid. It does not assume that every request must be granted. It does assume that every request must be taken seriously and assessed properly.

That is the line Canadian human rights law draws. This toolkit helps you walk it.