

Caribbean Court of Justice

**Policy To Improve Access to
Justice and Provide
Accommodations to Persons
with Disabilities**





Policy Name	Policy To Improve Access to Justice And Provide Accommodations to Persons with Disabilities
Description / Preamble	This policy aims to ensure the equal access to justice and opportunities within the Court for persons with disabilities who use and are employed by the Court. It provides a general framework for ensuring that the required accommodations are provided upon request and that such persons are not subject to discrimination or prejudice.
Type of Policy	<i>New Policy</i> ✓ <i>Revision of Existing Policy</i> <i>Guideline</i> <i>Procedure</i>
Developed by	CCJ Committee for Improving Access to Justice for Persons with Disabilities
Responsible / Accountable Officer	Human Resources Department
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INTRODUCTION

The mission of the Caribbean Court of Justice is to provide accessible, fair and efficient justice to people and states of the Caribbean Community. Strategy 4.1.1 of the Court's Strategic Plan 2019-2024 emphasises the need to ensure that the Court's processes are "accessible and characterised by competence, equal protection of the law, fairness, efficiency, impartiality and gender sensitivity."

Access to Justice is a basic and fundamental principle of the rule of law. In the context of persons with disabilities, access to justice requires that judiciaries, inclusive of judicial officers and court staff, must take all necessary steps to provide fair, transparent, inclusive, effective, non-discriminatory and accountable services for court users and employees alike.¹

The Caribbean Court of Justice and the Regional Judicial and Legal Services Commission are committed to creating an accessible and inclusive court and workplace and to facilitating equal, fair and efficient access for persons with disabilities.

The purpose of this Policy is to affirm the commitment of the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission to ensure equal opportunity and the full participation of persons with disabilities in the Court and its work, by providing accommodations such as special aids, equipment, improved physical access, training and sensitisation.

I. GLOSSARY OF TERMS/INTERPRETATION

In this Policy, unless the context otherwise requires: -

"Agreement" means the Agreement Establishing the Caribbean Court of Justice signed in Bridgetown, Barbados on 14 February 2011 as amended from time to time;

"Barriers" means factors in a person's environment that, through their absence or presence, limit functioning and create disability;

"Commission" refers to the Regional Judicial and Legal Services Commission established by Article V of the Agreement;

"Commissioner" means a person appointed as a member of the Commission under Article V.1 of the Agreement;

¹ Adapted from CAJO/JURIST Disability and Inclusion Awareness Guidelines for Judiciaries and Judicial Officers, February 2023.

“Communication” means any language, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Contractor” means any independent person or business contracted by the Court or the Commission to render services to the Court or the Commission;

“Court User” means any person who uses the facilities or services of the Court or the Commission;

“Court” means the Caribbean Court of Justice established under Article III of the Agreement;

“Disability” includes any physical, mental, intellectual or sensory impairment, whether permanent or temporary, which in interaction with various barriers, may hinder a person’s full and effective participation in society on an equal basis with others;

“Discriminate” means to accord different treatment to different persons solely or mainly as a result of their disabilities and includes using words, gestures or caricatures that demean, scandalise, or embarrass a person with a disability;

“Discrimination on the basis of disability” means any distinction, exclusion, or restriction on the basis of disability which has the purpose or effect of impairing or eliminating the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field, including all forms of discrimination such as denial of reasonable accommodation;

“Employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment with the Court or the Commission;

“Equality” (also called “substantive equality”) refers to the right of every individual to an equal opportunity to make the most of their lives, talents and ambitions, and not to be unfairly disadvantaged or discriminated against in relation thereto. It recognises that rights, entitlements, opportunities, and access are not equally enjoyed throughout society and is aimed towards equitably redressing these inequalities so as to affirm the equal and inherent dignity and value of all persons;

“Intermediaries” (also known as “facilitators”) means persons who work, as required, with employees of the Court and persons with disabilities to ensure effective communication during

legal proceedings. They support persons with disabilities to understand and make informed choices, making sure that things are explained and talked about in ways that they can understand, and that appropriate accommodations and support are provided;

“Judge” means a Judge of the Court and includes the President;

“Language” means spoken and signed languages and other forms of non-spoken languages;

“Persons with disabilities” means persons with physical, mental, intellectual or sensory impairment, whether permanent or temporary, who in interaction with various barriers, may be hindered in their full and effective participation in society on an equal basis with others;

“Policy” means the Policy to Improve Access to Justice and Provide Accommodations to Persons with Disabilities;

“President” means the President of the Court;

“Procedural Accommodations” means all necessary and appropriate modifications and adjustments to rules or policies, where needed in a particular case, to ensure the meaningful participation of persons with disabilities throughout court proceedings and the legal process on an equal basis with others;

“Reasonable Accommodations” means necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms; and

“Seat of the Court” means the principal premises occupied by the Court for its official use.²

II. PURPOSE AND PRINCIPLES

The accommodation of persons with disabilities in this Policy advances the commitment of the Court and the Commission to diversity and inclusion in its justice system by providing an environment and system that are accessible and free of barriers and discrimination. This Policy allows individuals to equally and equitably realise their legal rights as employees and court users.

² As set out in paragraph 4 of Article III of the Agreement establishing the Caribbean Court of Justice and occupied by the Court for its official use as per Article 1, Agreement Establishing the Seat Of The Caribbean Court Of Justice And The Offices Of The Regional Judicial And Legal Services Commission Between The Government Of Trinidad & Tobago And The Caribbean Court Of Justice And The Regional Judicial And Legal Services Commission.

This Policy is intended to:

- i. Affirm the commitment of the Court and the Commission to respect the human rights and fundamental freedoms of persons with disabilities and protect against their discrimination;
- ii. Provide an accessible and inclusive environment and workplace for all Commissioners, Judges, employees, contractors and court users;
- iii. Ensure that persons with disabilities are able to access employment opportunities at the Court through the provision of reasonable accommodations;
- iv. Ensure that employees of the Court who acquire a disability during the term of their employment are provided with reasonable accommodations as required to continue their employment;
- v. Create an environment supporting the inclusion and full participation of persons with disabilities to access justice through the provision of reasonable accommodations;
- vi. Recognise the value of diversity and strive to provide equal opportunities, reasonable accommodations and a supportive atmosphere for all Commissioners, Judges, employees, contractors and court users.

This Policy is underpinned and guided by the following principles:

- i. Access to justice is a basic and fundamental principle of the Rule of Law and all persons, including persons with disabilities, should be afforded accessible, fair and efficient justice;
- ii. Respect for inherent dignity, individual autonomy, including the freedom to make one's own choices, and independence of persons;
- iii. Recognition that all persons with disabilities have an equal voice in decision-making or;
- iv. Equality of opportunity through reasonable accommodations;
- v. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- vi. Accessibility through reasonable accommodations;

- vii. Discrimination against a person on the basis of disability is a violation of the inherent dignity and worth of the human person;
- viii. No person should have their dignity violated or human rights and fundamental freedoms denied, on the basis of their disability; and
- ix. No person shall be excluded from working for or participating in the services offered by the Court or the Commission, nor shall the Court or the Commission impose restrictions or rules barring the participation of persons with disabilities.

This Policy is also guided by the principles outlined in the:

- i. United Nations Convention on the Rights of Persons with Disabilities (2006);
- ii. United Nations' International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020); and
- iii. Disability and Inclusion Awareness Guidelines for Judiciaries and Judicial Officers (2023).³

III. SCOPE

- i. The Policy shall apply to all Commissioners, Judges, employees, and court users as well as any third party encountered during the course of work with the Court or the Commission.
- ii. Recognising that the Court and the Commission have limited authority over those who are not their employees, the Court and the Commission shall take reasonable steps to remove hindrances that impair the human rights and fundamental freedoms of persons with disabilities.

IV. DISABILITY AND INCLUSION AWARENESS GUIDELINES

The Court and the Commission adopt the Disability and Inclusion Awareness Guidelines for Judiciaries and Judicial Officers developed by the Court, the Judicial Reform and Institutional Strengthening (JURIST) Project⁴ and the Caribbean Association of Judicial Officers (CAJO) with

³ Refer to IV below.

⁴ See Annexure 1. The Judicial Reform and Institutional Strengthening (JURIST) Project was a multi-year (2014-2023) regional Caribbean judicial reform initiative funded under an arrangement with the Government of Canada. The Project was implemented on behalf of Global Affairs Canada (GAC) and the Conference of Heads of Judiciary of CARICOM (the Conference), by the Caribbean Court of Justice (CCJ), which was appointed by the Conference as its Regional Executing Agency (REA).

such adaptations which may be necessary or desirable, as determined by the Commission from time to time.

V. EQUAL EMPLOYMENT OPPORTUNITIES

- i. The Court and the Commission are committed to eliminating discrimination on the basis of disability and ensuring that persons with disabilities have equal opportunities in the workplace and/or the Court through reasonable accommodations.
- ii. The Court and the Commission will not discriminate against persons with disabilities during any stage of employment, including recruitment, hiring, training, performance assessment, promotion, compensation, and termination and will treat persons with disabilities respectfully and fairly at every stage.
- iii. Employment decisions will be based on merit, qualifications, and abilities, without regard to disability.

VI. REASONABLE ACCOMMODATIONS

- i. Any employee or court user employed with the Court or Commission or using the facilities of the Court and the Commission and who requires accommodations related to their employment or use of these facilities, may request reasonable accommodations as required based on their individual circumstances. The Court and the Commission are committed to providing reasonable accommodations to enable persons with disabilities, who are employed with the Court and the Commission, to perform their duties effectively.
- ii. The Court and the Commission are dedicated to ensuring that persons with disabilities receive such individual physical and Procedural Accommodations, including the support necessary to enable them to participate fairly, effectively and meaningfully throughout court proceedings and the legal process.
- iii. Commissioners, Judges, employees and contractors with disabilities are encouraged to request, within a reasonable timeframe⁵, the reasonable accommodations that they require to perform their job and duties effectively. Requests for reasonable accommodations will be treated confidentially, and all efforts will be made to accommodate these requests promptly and effectively.
- iv. With respect to a Commissioner, Judge, employee or contractor, reasonable accommodations will be determined on a case-by-case basis in consultation with the

⁵ To form part of Internal Guidelines to be developed by the Human Resources Department, Facilities Department and other relevant departments.

Commissioner, Judge, employee or contractor and, if deemed necessary, with assistance from appropriate external resources including persons who are qualified and trained in the field of disability.

- v. Court users are also encouraged to request, within a reasonable timeframe⁶, the appropriate accommodations they require to ensure that their engagement with the Court is accessible, fair, effective and meaningful. Requests for reasonable accommodations from court users will be treated confidentially, and all efforts will be made to accommodate these requests promptly and effectively.
- vi. The Court and the Commission are committed to creating an accessible, easy-to-use, and effective process for the requests for reasonable accommodations, inclusive of procedures relating to eligibility, denial of requests and review of such decisions which processes will be developed within six months.⁷

VII. PROCEDURAL ACCOMMODATIONS

Any court user who has a need related to their use of the Court, shall have the option to request Procedural Accommodations as required based on their individual circumstances.

- i. The Court will ensure that all court users and participants in legal proceedings are advised of the availability of Procedural Accommodations for persons with disabilities if needed and desired.
- ii. The Court is committed to:
 - a. Ensuring the provision of intermediaries, facilitators and aides who are trained
 - (i) to give communication assistance to parties to proceedings; and
 - (ii) to determine which accommodations and support are necessary and appropriate throughout the course of the proceedings, based on impairment type, impairment severity, gender, and age of persons with disabilities;
 - b. Facilitating communication with the guardian, caregiver, or chosen intermediary of a person with a disability;
 - c. Establishing officers responsible for coordinating the provision of Procedural Accommodations for persons with disabilities and for maintaining a roster of trained intermediaries, facilitators and aides to support persons with disabilities throughout the

⁶ To form part of Internal Guidelines to be developed by the Registry, Facilities Department and other relevant departments.

⁷ To form part of Internal Guidelines to be developed by the Human Resources Department, Facilities Department and other relevant departments.

- course of the proceedings, based on impairment type, impairment severity, gender, and age of persons with disabilities;
- d. Establishing a *Disability Screening Assessment Protocol*⁸ to identify any disability, whether visible or invisible;
 - e. Promulgating or adapting court protocols, procedures, and settings for hearings to ensure fair and equal treatment and full meaningful participation of persons with disabilities, including children/minors with disabilities, during proceedings, as appropriate; and
 - f. Providing an accessible, monitored, responsive, and consistently evaluated feedback mechanism for court users, including persons with disabilities, to request Procedural Accommodations, including modifications of or support in legal processes, with appropriate protection of their privacy.

VIII. ACCESSIBILITY

- i. The Court and the Commission are committed to promoting and ensuring a safe and accessible workplace and court environment.
- ii. The Court and the Commission commit to ensuring that all aspects of the workplace are accessible to persons with disabilities who may be employed with the Court and all public spaces, inclusive of the court rooms, robing rooms, meeting rooms, offices, the Registry and facilities are accessible to persons with disabilities who use and visit the Seat of the Court and the Commission.
- iii. Accessibility includes:

Physical Accessibility

- Guaranteeing accessibility of physical facilities and services including the provision of ramps, lifts, elevators, handrails, accessible restrooms, and parking spaces where necessary.
- Ensuring that all access points, passageways, working spaces, public spaces, and means of transportation used in the Court and the Commission are easily and reasonably accessible by persons with disabilities.

⁸ To be developed by the Human Resources Department and designated an appropriate name by same.

Audio Accessibility

- Ensuring the assistance and availability of intermediaries at the Court or in the courtroom for persons who are deaf or hard of hearing.
- Ensuring that instructions or proceedings are communicated and conducted at a reduced pace to allow for proper interpretation, translation, and understanding.
- Allowing sufficient time for communication between persons with disabilities and intermediaries as may be necessary for full understanding and meaningful participation.

Communications and Informational Accessibility

- Providing informational and communications infrastructure to reasonably accommodate all persons with disabilities, such as eliminating unnecessary complexity; avoiding unnecessary technical language and legal jargon; accommodating a wide variety of literacy, language, and communication modalities suitable for all persons with disabilities, including the use of pictorial, verbal, and tactile modes and other techniques, tools, and devices used by persons with disabilities.
- Ensuring that all processes provide the human, technical and other support necessary for court users, where available, to use forms of communication as may be necessary for their full participation before, throughout and following court proceedings, including:
 - The provision of intermediaries or facilitators to assist persons with disabilities;
 - Facilitating communication, through the use of third parties, including note-takers; qualified sign language and oral interpreters;
 - Relay services;
 - Tactile interpreters;
 - Assistive listening approaches, systems and devices;
 - Open, closed and real-time captioning, and closed caption decoders and devices;
 - Voice, text and video-based telecommunications products;
 - Videotext displays;
 - Computer-assisted real-time transcription;
 - Screen reader software, magnification software and optical readers;
 - Braille communications for persons with a visual impairment.

- The Court and the Commission are committed to ensuring that all information, policies, and procedures, are accessible to persons with disabilities in formats that reasonably suit their needs. The Court and the Commission acknowledge that it is important to ensure that persons with disabilities can receive timely, understandable, and accessible judicial policies, protocols, legal procedures, and information relating to court processes and proceedings.
- Information technology, including websites, software, electronic documents, signs and notices will be designed and maintained to be accessible by persons with disabilities.

Accessibility During Times of Emergency

- i. The Court and the Commission are dedicated to ensuring that their emergency processes and plans accommodate persons with disabilities. This includes ensuring that emergency exits, muster points, and emergency procedures are designed to accommodate quick and easy access by persons with disabilities.
- ii. The Court and the Commission are committed to training safety wardens and other designated staff to assist persons with disabilities during an emergency.

IX. SENSITISATION AND AWARENESS

- i. The Court and the Commission will provide disability and inclusion awareness training to all Commissioners, Judges, and employees to promote a better understanding of this Policy and ensure inclusive practices and positive attitudes about disability in the workplace and the Court.
- ii. Commissioners, Judges, and employees will be sensitised on their rights, as well as the rights of their colleagues with disabilities, under applicable laws and regulations, and on the Court and the Commission's commitment to creating an inclusive work environment.
- iii. All efforts will be made to sensitise court users and contractors on this Policy and the Court and the Commission's commitment to creating an inclusive environment.

X. COMPLAINTS

- i. The Court and the Commission are committed to creating an accessible, easy-to-use, transparent, and effective mechanism/s for the reporting of complaints from or on behalf of persons with disabilities about the services of the Court and any alleged breach of this Policy.

The complaints mechanism/s will be developed by the Divisional Managers within six months of the coming into force of this Policy.

Complaints by Employees

- ii. Employees who believe their rights under this Policy have been, are being or are likely to be violated, should report their concerns promptly to their immediate supervisor, a trusted manager or the Human Resources Department.
- iii. Complaints will be dealt with in accordance with the Regional Judicial and Legal Services Commission's Judicial Discipline Regulations and the Staff Regulations.

Complaints by Court Users

- i. Court users who believe their rights under this Policy have been, are being or are likely to be violated, should report their concerns promptly to the Registrar and Chief Marshal of the Court.
- ii. Such reports and any complaints arising therefrom will be dealt with in accordance with [the mechanism/s developed in accordance with (X(i))].

XI. VICTIMISATION

- i. The Court and the Commission prohibit any form of victimisation of any Commissioner, Judge, employee, contractor or court user who exercises their rights or seeks any accommodation under this Policy.
- ii. Any form of victimisation of a Commissioner, Judge or employee for requesting reasonable accommodations or participating in disability-related activities will not be tolerated and may result in disciplinary action.
- iii. Any employee who believes that they have been or will be victimised for seeking or requesting an accommodation, should report the matter immediately to their immediate supervisor, a trusted manager or the Human Resources Department.

XII. MONITORING & REPORTING

- i. The Human Resources Department is responsible for implementing and monitoring compliance with this Policy. The Department will provide guidance to Commissioners, Judges and employees, manage requests for accommodation, and address any concerns related to the rights of persons with disabilities.

- ii. The Court and the Commission will ensure that this Policy is widely disseminated to all relevant persons:
 - a. The Policy will be included as an addendum to the Regional Judicial and Legal Services Commission Judicial Discipline Regulations and the Staff Regulations.
 - b. All employees will be trained on the contents of this Policy.
 - c. New employees will receive the training as part of their orientation during their first three (3) months of employment.
 - d. Every year, the Court and the Commission will require all employees to participate in a refresher training on the content of this Policy.
 - e. It is the responsibility of every manager or supervisor to ensure that all employees in their respective units are aware of the Policy.
 - f. All employees will be required to confirm in writing (by signature) that they have read and understood the policy.
 - g. Notices will be posted at strategic locations throughout the building housing the Court and the Commission, and by such electronic means that are utilised by the Court and the Commission so that users of the Court and the Commission are aware of the policy.
- iii. The Court and the Commission are committed to developing a strategy for managing disability and disability-related issues in the workplace as part of its employment policy/human resources development strategy.
- iv. The President shall have the power to create rules and procedures which give effect to this Policy.

XIII. REVIEW

- i. The Organisational Development/Human Resources Advisor will submit an annual report on compliance with this Policy to the Commission. The report will be used to evaluate the effectiveness of this Policy and recommend any amendments and revisions, where necessary, to this Policy.
- ii. The period for review of this Policy shall be every 3 years.

ADDITIONAL RESOURCES

- i. United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (2006);
- ii. United Nations' International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020);
- iii. Caribbean Court of Justice Strategic Plan 2019-2024, Unlocking Potential, Strengthening Caribbean Jurisprudence;
- iv. Guidelines for Employers on Disability in Trinidad and Tobago, Equal Opportunity Commission.