

Pre-Action Protocol Letter

To:

Ministry of Justice (MoJ)

Her Majesty's Courts and Tribunals Service (HMCTS)

From: Nadia Zahmoul

Date: 20 October 2025

Subject: Formal Pre-Action Notice – Procedural Unfairness, Disability Discrimination & Systemic Failures in the Administration of Justice

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1. Introduction

This letter gives formal notice under the **Pre-Action Protocol for Judicial Review** and the **Equality Act 2010**.

It concerns multiple and continuing failures by **HMCTS** and the **Ministry of Justice**, whose officers and contracted agents have not fulfilled their statutory and procedural duties to ensure fairness, equality, and accessibility for disabled court users.

2. Background

I am a disabled litigant with confirmed diagnoses of **Autism Spectrum Condition (2025)** and **Post-Traumatic Stress Disorder (2013)**.

Between 2024 and 2025, I was involved in family proceedings before the High Court (Justice MacDonald) and subsequent appeals to the Court of Appeal.

Despite the courts' express awareness of my vulnerabilities and repeated medical confirmation, participation measures under **FPR Part 3A** were either inconsistently applied, prematurely revoked, or entirely ignored post-trial.

These failings culminated in discriminatory findings, procedural irregularities, and denial of my Article 6 ECHR right to a fair trial.

The outcome represents not a personal disagreement with judgment but **a systemic breakdown in how the justice system handles vulnerable and neurodivergent parties**, amounting to institutional discrimination and breach of statutory duty.

3. Procedural Failures and Equality Breaches

A non-exhaustive summary of breaches is set out below.

For detailed evidential references, see **Application for Review and Correction (CA-2024-001342)**.

Category	Description of Failure	Breach of Authority
Identification of Vulnerability	No proper assessment or record made under FPR 3A.5–3A.6.	FPR Part 3A / PD 3AA §§3–4
Continuity of Measures	Participation measures ended post-trial without review.	FPR 3A.7–3A.9; Equality Act 2010 s.20
Judicial Reasoning	Vulnerabilities omitted from written judgments; replaced by character findings (“obsessive”, “disruptive”).	Article 6 & 14 ECHR; Equality Act 2010 s.29

Category	Description of Failure	Breach of Authority
Medical Evidence	Reports by Dr Poyser (Mar 2025), Prof Libby (2022 & 2024) ignored or mischaracterised.	FPR 3A / PD 3AA; Fairclough v MoJ [2021] EWCA Civ 143
Administrative Handling	HMCTS failed to implement communication adjustments or accept digital filing formats despite requests.	Equality Act 2010 s.20 (Reasonable Adjustments)
Transparency & Records	Refusal to provide recorded transcript despite material relevance.	CPR 52.30; Article 6 ECHR
Accountability	No investigation or review by MoJ or HMCTS Equality Leads despite formal complaints.	Public Sector Equality Duty s.149 EA 2010

These omissions amount to **systemic failure of disability governance**, not merely judicial discretion.

4. Judicial and Administrative Oversight Failures

The Ministry of Justice and HMCTS bear statutory responsibility for:

- ensuring accessibility of courts and procedural fairness for disabled users;
- implementing the **Public Sector Equality Duty (s.149 EA 2010)**; and
- ensuring that judicial and administrative decision-making aligns with the **Autism Act 2009**, the **Equality Act 2010**, and the **Human Rights Act 1998**.

Both the High Court and the Court of Appeal failed to apply the **continuing duty** under FPR Part 3A beyond the courtroom.

The post-trial revocation of measures and refusal to adjourn proceedings during acute relapse (supported by Dr Poyser's March 2025 report) further demonstrate institutional inflexibility and disregard for medical evidence.

5. Public Interest and Systemic Accountability

This case is not an isolated matter but a **test case for systemic reform**.

It demonstrates how procedural rules and equality duties break down in practice, leaving autistic and disabled parties exposed to injustice and misrepresentation.

The issues raised fall squarely within the public interest:

- compliance with **FPR Part 3A** and **PD 3AA**;
- the implementation of the **Autism Act 2009**;
- and the duties of the MoJ and HMCTS under the **Equality Act 2010**.

Given the apparent institutional cover-up of these failings, external scrutiny by Parliament, the media, and advocacy organisations is essential to restore public confidence and accountability.

6. Relief and Remedy Sought

1. Formal acknowledgment of breach of the Equality Act 2010 and FPR Part 3A duties;
2. Written apology from HMCTS and the MoJ for failures of procedure and support;
3. Immediate policy review to ensure consistent implementation of Part 3A participation measures and autism adjustments;
4. Inclusion of these issues in the **Autism Act 2009 Committee's current review** of justice accessibility;
5. Compensatory or restorative steps for loss of fair hearing rights.

7. Parallel Proceedings

This correspondence accompanies and complements the **Application for Review and Correction (CA-2024-001342)** filed with the Court of Appeal.

The judicial application seeks redress within the appellate framework; this Pre-Action Letter concerns the **systemic and administrative accountability** of the MoJ and HMCTS.

Both routes are pursued concurrently to ensure transparency, given the judiciary's reluctance to acknowledge procedural wrongdoing.

8. Next Steps and Notice

Under the Pre-Action Protocol, I invite a **substantive response within 14 days** of receipt, indicating the steps the MoJ and HMCTS intend to take.

Should no satisfactory response be received, I reserve the right to commence proceedings for **Judicial Review and/or discrimination under the Equality Act 2010**.

Please confirm acknowledgment and designate a contact point for further correspondence.

Updated medical evidence relating to my recent relapse (since 26 September 2025) is available upon request.

Yours faithfully,

Signed: Nadia Zahmoul

Nadia Zahmoul

Email: Nadia@rosekross.com Date: 20 October 2025

Annex A – Breaches of the Autism Act 2009 and Related Equality Duties

1. Statutory Framework

The **Autism Act 2009** requires the Secretary of State to promote a national strategy for improving autism services and ensuring that public bodies implement reasonable adjustments for autistic individuals.

The **Public Sector Equality Duty (s.149 EA 2010)** further obliges all public authorities to eliminate discrimination and advance equality of opportunity.

2. Breaches Identified

1. **Failure to Provide Reasonable Adjustments:** Autism-specific measures recommended by clinicians (Dr Cheung, Prof Libby) were ignored.
2. **Failure to Train and Supervise Court Staff:** HMCTS did not ensure that staff handling communications with autistic litigants were appropriately trained.
3. **Failure to Implement Autism Strategy Within Justice Settings:** Contrary to the Statutory Guidance (2021 update to the Autism Act strategy).
4. **Failure to Ensure Data Collection and Monitoring of Adjustments:** No record kept of autism adjustments or follow-up reviews.
5. **Failure to Coordinate With Health Professionals:** No liaison with medical experts regarding participation needs before revoking measures.

3. Implications

These breaches illustrate systemic non-compliance with the Autism Act 2009 and Equality Act 2010, resulting in procedural unfairness, loss of trust, and institutional discrimination within the justice system.

The case is therefore submitted to the **Autism Act 2009 Select Committee** for consideration in its forthcoming review and recommendations.