

The Disability Discrimination Act 1995 : what service providers need to know / [Department for Education and Employment].

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what service providers **need to know**



See the person

The Disability Discrimination Act 1995

The Disability Discrimination Act aims to end the discrimination which many disabled people face.

The Act gives disabled people rights in the areas of:

- access to goods, facilities and services;
- buying or renting land or property;
- employment.

Some of these rights were introduced from 2 December 1996; others are being introduced over a period of time.

For service providers (e.g. businesses and organisations):

- since **December 1996** it has been **unlawful to treat disabled people less favourably** than other people for a reason related to their disability;
- since **1 October 1999** they have had to make **reasonable adjustments** for disabled people, such as providing extra help or making changes to the way they provide their services;
- from **2004** they will have to consider making reasonable adjustments to the **physical features** of their premises to overcome physical barriers to access.

In addition the Act:

- requires schools, colleges and universities to provide information for disabled people;
- allows the Government to set minimum standards so that disabled people can use public transport easily.

Northern Ireland

The Act also applies in Northern Ireland.

This booklet gives general guidance only and should not be treated as a complete and authoritative statement of the law.

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1. Does the Disability Discrimination Act affect me?

If you are involved in any business or organisation which:

- provides a service;
- offers facilities; or
- supplies goods

to the public, whether paid for or free, then the Disability Discrimination Act affects you. The Act refers to you as a service provider.

This includes:

- shops and restaurants;
 - banks and building societies;
 - hotels and guest houses;
 - theatres and cinemas;
 - sport and leisure facilities;
 - insurance companies;
 - telecommunications and broadcasting services
- and many others.

It also includes public services such as:

- hospitals;
- doctors' and dentists' surgeries;
- departments of both central and local government;
- libraries and museums;
- places of interest (such as historic buildings);
- churches, or other places of worship;
- bus and railway stations.

But it does not include transport vehicles or providing education.

If you are involved in selling, letting or managing land or property, you should read section 6.4.

1.1 What's in it for me?

There are a large number of disabled customers in the population and they choose where they spend their money. If you are positive and welcoming in your approach and provide a good service, you will attract not only disabled customers but also their friends, relatives, carers and colleagues. Word will soon get around that you are positive about disability.

1.2 Why do we need this law?

Every day disabled people face difficulties that most non-disabled people have no idea about. It's not just about ramps, wide doorways and accessible toilets for wheelchair users. It's about all disabled people and the way they are treated.

You probably treat your disabled customers as well as you treat everybody else. But there are some service providers who don't. The Disability Discrimination Act aims to put this right.

1.3 Why should I bother about it?

You have to bother. If you break the law you might end up in court.



2. What do I have to do?

A service provider must not discriminate against a disabled person because of their disability by providing less favourable treatment or failing to make reasonable adjustments.

2.1 What is discrimination?

You may be breaking the law if you treat a disabled person less favourably than someone else because of his or her disability, except in specific circumstances (see section 3).

You must not:

- refuse to serve a disabled customer;
- offer a disabled customer a lower standard, or worse manner, of service; or
- offer a disabled customer less favourable terms.

And you must:

- make reasonable adjustments to your practices, policies or procedures, so that disabled people can use your services.

2.2 Who is disabled?

Somebody whose disability makes it difficult for them to carry out normal day-to-day activities is likely to be a disabled person within the meaning of the Act. The disability must be more than temporary. It has to have lasted a year (even if the person has since recovered), or be likely to last at least a year, to count.

For example, someone who uses a wheelchair or has difficulty in walking, someone who is deaf, someone who has significantly

impaired speech, someone who is blind or partially sighted, someone who has continuing treatment for diabetes, someone with epilepsy, someone who has a learning disability or someone who has a mental illness, could be disabled. Also protected by the Act are people who have a severe disfigurement. And someone who was once disabled but has since recovered, such as someone who has recovered from a mental illness, is still protected. The Act also covers someone whose condition might initially have only a slight effect on their day-to-day activities, but is likely to get worse, such as people with cancer, HIV infection or multiple sclerosis.

You do not have to be an expert on disability. In most cases there will be no question about whether or not someone is disabled. The Government has published statutory guidance explaining who is covered by the Act's definition of disability, and the courts must take into account any of it which is relevant.

2.3 When is it wrong to refuse to serve a disabled customer?

You must not refuse to serve, or deliberately avoid serving, a disabled customer for any reason related to their disability.

For example:

A hairdresser would be breaking the law if she refused to make an appointment for someone with a severe facial disfigurement because she thought that other customers might be upset.

What if someone else can provide a better service?

You cannot refuse to serve a disabled customer because you think that another service provider may cater better for them. You could

still be breaking the law, even if you think that you are being helpful to a disabled customer, by not serving them.

For example:

You would be breaking the law if you were a solicitor's receptionist and refused to book an appointment for someone who is deaf because you thought that the person would be more comfortable at another solicitor's where one of the staff can understand sign language.

Can I ever refuse to serve a disabled customer?

Yes. You may still be able to refuse to serve a disabled customer as long as your reasons have nothing to do with their disability and you would refuse to serve other customers in the same circumstances.

For example:

A publican could refuse to serve a disabled customer because he is drunk and abusive. As long as the refusal is not because of the customer's disability, the publican is not breaking the law.



2.4 What does 'a lower standard or worse manner of service' mean?

It means a service provider must not offer a disabled customer a lower standard of service than they would offer other customers. And a service provider must not be less polite to a disabled customer because of their disability.

For example:

Imagine you are a waiter in a busy café. Customers all round you are impatient to be served. At one table there are two disabled customers with their friends. Although you know they have been waiting longest you decide to leave them until last, because you know from serving them previously that it will take longer to take their order. This would be giving them a lower standard of service.

Do I have to stock special products and items for disabled customers?

No. To avoid providing a lower standard of service does not mean that you have to stock special items for a disabled customer or change the service you normally provide for customers in general.

For example:

A bookshop would not have to stock copies of books in large print if they do not normally stock them. But if they order books on behalf of customers they would be expected to take orders from a partially sighted customer for large print books.

2.5 What does offering 'less favourable terms' mean?

You cannot offer a disabled customer worse terms than you would offer other customers. You cannot, for example, charge more for the same service or restrict the way the service is used because of a customer's disability.

For example:

A person with epilepsy is organising a social evening in the town hall for her local voluntary organisation. Normally, rooms in the town hall can be booked without paying a deposit. But in this case the manager decides to charge a deposit in case the person has a seizure and causes damage. This would be offering worse terms.

Can I treat a disabled customer better than other customers?

Yes. You are allowed to make disabled customers feel particularly welcome, or do more for them than you do for others.

For example:

A civil servant in a government office fills in a form on behalf of a blind person, whereas customers normally have to fill them in themselves. This is more favourable treatment.

You can also offer disabled people better terms.

For example:

The owner of a stately home can charge a lower admission price for disabled people.

2.6 What does 'considering reasonable adjustments' mean?

You should consider whether your services are accessible to disabled people. You should anticipate their needs and the adjustments that may have to be made for them, rather than wait until a disabled person wants to use a service you provide.

So what am I actually required to do?

You must take reasonable steps to change your practices (what you do), policies (what you intend to do) or procedures (how you plan to go about it), if they make it impossible or unreasonably difficult for disabled people to use your services.

For example:

A shop has a policy of not allowing dogs on its premises. It may be unlawful for the shop not to change this policy to allow an exception for disabled people accompanied by a guide dog.

You must take reasonable steps to provide a reasonable alternative method for making your services available to disabled people, where a physical feature makes it impossible or unreasonably difficult for them to use these services.

For example:

An independent cinema has a steep flight of stairs at its front entrance, making it impossible or unreasonably difficult for visitors with a mobility impairment to have access to the cinema. A side entrance for staff use only is fully accessible and always open. The cinema decides to allow disabled people to use this side entrance.

You must also take reasonable steps to provide an auxiliary aid or service if that would enable or make it easier for disabled people to use your services.

For example:

A person with multiple sclerosis who uses a wheelchair visits her local insurance broker. The reception desk is too high for her to lean on to fill in a form so she is given a clipboard to rest the form on and is able to complete it.

How do I know what is reasonable?

What is a reasonable step for you is likely to depend on the type of services you are providing, your size and resources, and also what effect the disability has on the individual disabled person.

For example:

In a busy sub-post office it might be reasonable to offer a seat to a customer with arthritis who cannot stand in a queue for very long. But it is unlikely to be reasonable to expect the post office to send a member of its staff to the disabled customer's home to, for example, sell him a TV licence, since this is not a service they provide to the public at large.



3. Can I treat a disabled customer less favourably or not make reasonable adjustments?

Yes, there are reasons which might apply:

- where the treatment is necessary in order to avoid endangering the health and safety of any person;
- where the disabled person is incapable of entering into a legally enforceable agreement or of giving informed consent;
- if you would otherwise be unable to provide the service to the disabled person or other members of the public;
- when greater expense is involved in providing a special service for a disabled customer;
- when an adjustment would fundamentally alter the nature of a business or service.

Your reasons must be genuine and it must be reasonable for you to hold them.

These reasons are explained in more detail below.

3.1 Health or safety

It is possible to treat a disabled person less favourably, and you may not have to make reasonable adjustments for them, if you reasonably believe that making adjustments would endanger the health and safety of any person, including the disabled person in question. Your reason for providing less favourable treatment or not making reasonable adjustments in these circumstances must be genuine.



For example:

A wheelchair user with a back injury wants to work out by using the weights in a gym. The supervisor believes the customer would be at risk of injuring herself. However, if the disabled customer informs him that there is no risk because, for example, her doctor has advised that exercising will not strain her back, the supervisor must be ready to change his mind.

3.2 When a disabled customer is unable to understand a contract

You don't have to provide a disabled customer with a service if you reasonably believe they are incapable of understanding the nature of the agreement or their legal obligations and because of this it is reasonable for you not to provide the service. This provides a degree of security for both you and the disabled person.

For example:

A person with a learning disability wishes to rent a television and video package. If the salesman reasonably believes the customer does not understand the nature of this agreement, for example, that continuing payments are involved – he is within the law in refusing to serve the customer.

This does not mean that you can refuse to serve any disabled customer or refuse to make reasonable adjustments for them because you do not think they understand the agreement. The customer may be able to understand simple transactions and only have difficulty with particularly complex ones.

For example:

While she is in the store the same customer wishes to purchase batteries for her personal stereo and she has the money to pay.

It would not be reasonable in these circumstances for the salesman to believe that she did not understand what she was doing and he must sell her the batteries.

What if the disabled customer has someone acting on her behalf?

If someone is legally appointed to act on behalf of the disabled customer, for example under a power of attorney, you could not treat that person less favourably simply because the disabled customer could not understand the agreement.

3.3 When it would mean no longer providing the service

You can refuse to serve a disabled customer if you reasonably believe it is necessary to do so because otherwise you would be unable to provide the service to the public at all.

For example:

A theatre manager could refuse entry to a performance to someone who shouts due to a behavioural disorder, if this would make it impossible for others to receive the service.

But you cannot refuse to serve a disabled customer simply because other customers would be put out or delayed if you didn't.

For example:

Imagine you are serving at the counter in a busy shop when you are approached by a disabled customer who wishes to know about a particular product. Because of his disability he takes a long time trying to explain what he wants and a queue of customers builds

up. You realise other customers are becoming impatient. You are tempted to tell the man to go to the back of the queue so as not to delay your other customers. You will be breaking the law if you do.

You may be able to provide a lower standard of service, or provide the service on worse terms, if you reasonably believe this is necessary in order to provide the service to the disabled customer or other customers.

For example:

A cinema owner has set aside a designated area on the ground floor for wheelchair users because the other floors are not accessible. Wheelchair users therefore have a restricted choice of seating, but this is necessary in order to provide the service to these disabled customers.

For example:

In order to allow a child who has difficulty in walking to join in a supervised treasure hunt, the organisers must limit the number of clues he gets. Otherwise there would not be enough time for him to complete the activity before he and the other children have to go home. The disabled child may be getting a lower standard of service, but this is necessary in order to provide the service to the other children.



3.4 Where greater expense is involved

You cannot charge a disabled customer more for the same service or goods that you supply to other customers.

What if it costs me more to provide a special service or special goods?

Only if you reasonably believe it would cost you more, in material or labour, to provide a service to meet the particular needs of a disabled customer may you charge more to reflect that increased cost.

For example:

If you were a tailor making a special suit for a disabled customer, necessarily involving higher costs in more material and time, you would be able to charge more.

3.5 Where an adjustment would fundamentally alter the nature of a business or service

You do not have to make adjustments which would so alter the nature of your business that you would effectively be providing a completely different kind of service.



For example:

A nightclub with low level lighting is not required to adjust the lighting to accommodate customers who are partially sighted, if this would fundamentally change the atmosphere or ambience of the club.

3.6 Who decides whether one of these five reasons applies?

It's your opinion that matters. But it must be a reasonable opinion. You are expected to take account of all the information available to you at the time. Depending on the facts, it might be reasonable for you to find out more about the effect of a disability. If you get new information you must be prepared to change your mind.

What if my opinion turns out to be wrong?

You are not expected to be an expert on disability. The courts will accept your decision if you genuinely believed one of the reasons applied and it was reasonable for you to do so.

3.7 What if I have to take action under another law?

The Disability Discrimination Act does not overrule other legislation. If you have to take action under another law, that law takes priority.

For example:

Under the 1988 Road Traffic Act the Driver and Vehicle Licensing Agency could refuse a driving licence to someone whose disability meant that he was likely to be a danger to other road users.

4. Do any services have special rules?

Yes. There are special rules about:

- replacing or repairing goods; and
- insurance.

4.1 Why are there special rules about replacing or repairing goods?

Retailers usually replace or repair goods that wear out or break within a certain time. Generally, the goods have to have been subjected to no more than normal wear and tear. But in situations where a person's disability results in a lot more wear and tear, it would not be reasonable for service providers to have to replace the goods.

For example:

Because of their disability someone regularly forgets to fill an electric kettle with water. As a result the kettle burns out within three months. A shop could refuse to replace or repair it.

4.2 Why are there special rules for insurance?

Because insurance provides cover against a specific risk. Insurance companies have to distinguish between the different risks presented by different people, then make their policies and set their premiums according to the type and degree of risk. In some cases, a person's disability may have a bearing on the risk to be insured.

Can I refuse to insure a disabled person?

Yes. But you have to have evidence of an increased risk.

For example:

Where there is evidence that a person is suffering from a terminal illness and has a limited life expectancy, you could refuse to provide life insurance to that person.

Can I charge a disabled person more for insurance?

Yes. But you must not charge a disabled person more than anyone else unless you have reliable information, such as statistical data, which shows that the disabled person represents an increased level of risk.

For example:

An insurance company would not be able to charge a blind person a higher premium for home contents insurance because they thought there was an increased risk of accidental damage, unless there was evidence to support that opinion.

Might I have to prove that there was increased level of risk?

Yes. If a disabled person established in court that you had treated them worse than anyone else, it would be up to you to prove that they represented an additional risk.

Can I still insure a disabled person even though I know there is an increased risk?

Yes. Some insurance companies may be willing to insure someone who represents an increased risk whereas others may not. As with all things, consumers will shop around and choose the company that offers the best deal.

5. Are any services excluded?

Yes. Excluded from the part of the Act which covers access to goods, facilities and services are:

- transport vehicles; and
- the provision of most education.

But separate parts of the Act cover them.

5.1 What does this mean for education?

There are already laws in place to protect pupils and students with special educational needs and disabilities. The Disability Discrimination Act requires information to be provided about access to schools, colleges and universities. But some of the rules are different in Scotland and Northern Ireland.

There is more information in booklet DL100 *The Disability Discrimination Act – Education*. You can get this from the DDA Helpline – see page 27 for details.

5.2 What does this mean for transport?

The Act allows the Government to set accessibility standards for new public transport vehicles so that disabled people can use them easily and safely.

For more information contact the Department of Transport's Mobility Unit for copies of the Transport Bulletins (Tel: 020 7271-5259). The booklet DL110 *The Disability Discrimination Act – Public Transport Vehicles*. You can get this from the DDA Helpline – see page 27 for details.

6. Is there anything else I need to know?

Yes. There are a number of other ways in which you could be breaking the law.

6.1 Am I liable for anyone else's actions?

You could be. Everyone who works for you or does work on your behalf has to comply with the law.

If one of your employees breaks the law he could be taken to court. You may have to prove that you did your best to prevent discrimination from happening, or you too could be found to be guilty of discrimination.

If someone who works on your behalf, for example an agent, breaks the law, action could be taken against you as well as them. You may be able to defend yourself in court if you could show that the agent was not acting with your authority.



6.2 Would I be breaking the law if I picked on someone who accused me of discrimination?

Yes. You must not victimise anyone, disabled or not, who brings legal proceedings or claims against you, gives evidence or information relating to proceedings or claims that you or anyone else has broken the law.

6.3 Would I be breaking the law if I helped someone else to discriminate?

Yes. You should not help anyone to discriminate against a disabled person.

6.4 What if I sell, let or manage land or property?

It is against the law to discriminate against a disabled person, because of their disability, in connection with the selling, letting or management of land or property.

This includes:

- estate agents, accommodation agents, councils, housing associations, hostel owners, private landlords, property developers, property management agencies, property investment companies and institutions, banks and building societies. Owner occupiers are also included but only if they use an estate agent to advertise their property.

What types of property are included?

Most types of property are included:

- land, houses, flats, hostels and business premises.

Is all property included?

No. For example, rooms let out to six or fewer people in someone's own home are not included. Nor are rooms booked in a hotel or guest house. But people who own or work in hotels and guest houses provide a service to the public so they need to know how the law affects them as service providers.

Where can I get more information?

The Government has issued a Code of Practice, prepared by the National Disability Council, which gives practical advice on how to comply with the law. It can also be used in evidence in legal proceedings under the Act. A separate Code applies in Northern Ireland. You can find details in section 10.



7. What if someone says I've broken the law?

First, try to resolve a complaint by discussing it with the person involved. Most service providers already do this as a matter of course.

What if we cannot resolve it? Is there anyone we can turn to for help?

You may wish to seek the assistance of a trade association or the person who normally advises you on legal matters. A disabled customer might seek advice from a disability organisation. Or, both you and the person involved may seek the help of one of the many general advice organisations in existence.

What happens if the dispute is still not resolved?

If the dispute is not resolved, you could be taken to court. Normally a case should be brought within 6 months of the alleged act of discrimination. If the disabled customer wins the case, they could win compensation for financial loss, for injured feelings, or for both. They may seek an injunction or, in Scotland, an interdict, against you to prevent any further discrimination.

8. What about the future?

Where a physical feature makes it impossible or unreasonably difficult for disabled people to use a service, service providers will, from 2004, have to take reasonable steps in order to:

- remove the feature;
- alter the feature;
- provide a reasonable alternative means of avoiding the feature;

or

- provide a reasonable alternative method of making the service available to disabled persons (this duty already exists).

Service providers may wish to anticipate the first three if they are planning any building or refurbishment work.

The Government is setting up a Disability Rights Commission which will help disabled people and service providers alike. It will help disabled people secure their rights under the Disability Discrimination Act and help employers and service providers understand their responsibilities under the legislation. The commission is expected to be set up in April 2000. In Northern Ireland the Equality Commission will carry out a similar role.



9. Practical tips

The law does not say you have to do any of these things. You may be doing them already, but if not you may find it helpful to think about the following practical tips:

Don't assume that the Disability Discrimination Act won't apply to you.

Consider whether you need to change the way you treat your customers in the light of the Disability Discrimination Act.

Tell your staff about the new Act.

Speak to people who do work on your behalf about the Act.

Read the Code of Practice on Access to Goods, Facilities, Services and Premises and the Guidance on the definition of disability.

Consider having disability awareness training.

Provide disability awareness training for your staff who deal with the public.

Talk to your disabled customers about the service you give them.

Consult your local disability organisations about serving disabled customers.

Don't wait until 2004 to remove any physical features of your buildings that create a barrier to access for disabled people. Consider doing this at the same time as any refurbishment work you are planning, which could help reduce costs and disruption.

10. Further information

10.1 Other publications

The following publications are available free from the DDA Helpline. All are available in alternative formats. The address and contact numbers for the Helpline are printed below.

The Disability Discrimination Act 1995 – A Guide for Everybody (DL160)

The Disability Discrimination Act 1995 – An Introduction for Small and Medium-sized Businesses: Rights of Access to Goods, Facilities and Services (DLE9)

The Disability Discrimination Act 1995 – What Employers Need to Know (DL170)

The Disability Discrimination Act 1995 – What Employees and Job Applicants Need to Know (DLE3)

Employing Disabled People – A Good Practice Guide for Managers and Employers (DLE7)

If you would like to order any of these publications please telephone the DDA Helpline on 0345 622 633 or 0345 622 644 (textphone). The line also offers a faxback service on 0345 622 611 and an automated service on 0345 622 688. These publications can also be ordered through, or downloaded from the internet at www.disability.gov.uk

or write to:

DDA Help, Freepost MIDO2164, Stratford-upon-Avon, CV37 9BR.
E-mail: ddahelp@stra.sitel.co.uk

10.2 Codes of Practice

The Government has produced the following publications, which give practical guidance to employers, service providers and people involved in selling, letting or managing property:

- *Code of Practice – Rights of Access – Goods, Facilities, Services and Premises*

Price £12.95 ISBN 0 11 271055 7

(For Northern Ireland: ISBN 0 337 08453 X)

- *Code of Practice for the Elimination of Discrimination in the Field of Employment Against Disabled Persons or Persons Who Have Had a Disability*

Price £9.95 ISBN 0 11 270954 0

(For Northern Ireland: ISBN 0 337 09435 7)



- *Code of Practice – Duties of Trade Organisations to their Disabled Members and Applicants*
Price £9.95 ISBN 0 11 271071 9
(For Northern Ireland: ISBN 0 337 09462 4)
- *Guidance on Matters to be Taken into Account in Determining Questions Relating to the Definition of Disability*
Price £7.50 ISBN 0 11 270955 9
(For Northern Ireland: ISBN 0 337 09436 5)

These publications are available from Stationery Office bookshops. They can be ordered by telephoning or faxing on the numbers below:

Telephone orders: 0870 600 5522
(For Northern Ireland: 028 9023 8451)

Fax orders: 0870 600 5533
(For Northern Ireland: 028 9023 5401)

The Codes of Practice are also available in alternative formats. They can be obtained from the DDA Helpline.



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