



# PRINCIPLES OF DISABILITY DISCRIMINATION

The legal standards are the **Disability Discrimination Act 1995** and **Disability Discrimination Act 2005**. Regulations have been made under these Acts. These Acts and Regulations are supported by Codes of Practice and Guidance.

1. The **Disability Discrimination Act 1995** (DDA) introduced measures aimed at ending unfair discrimination against persons with disabilities. Persons with disabilities have rights in the following areas: -

- Employment
- Access to goods, facilities and services
- The management, buying or renting of land or property

**Employers** have a duty not to treat disabled people less favourably than others for a reason relating to their disability unless this can be justified. The duty of reasonable adjustment applies where any physical feature of premises or any arrangements made result in substantial disadvantage to a disabled person compared to a non-disabled person.

Those providing **services** have or will have the following duties: -

- Since 2 December 1996 service providers are not to treat disabled people less favourably for reasons related to their disability
- From October 1999 service providers have to make reasonable adjustments in the policies, procedures and practices for disabled people
- From 2004 service providers will need to make reasonable adjustments to physical features

From 1 October 1999 **service providers** are to: -

- Make reasonable adjustments to policies, procedures or practices which exclude disabled people
- Provide auxiliary aids and services to enable or make it easier to use a service
- Where a physical feature is a barrier to service, providing a reasonable alternative method of delivering the service

From 2 December 1999 **landlords and other persons in connection with the selling, letting and managing of premises** are to: -

- Not to treat disabled people less favourably for a reason related to their disability

2. **Physical features are:** -

- Anything arising from the building design or construction or approach to, exit from or access to a building.

- Fixtures, fittings, furnishings, furniture, equipment or materials
  - Any other physical element
3. **Disability** is defined as “A physical or mental impairment, which has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities.”
- 3.1. **Physical impairment** includes a weakening of part of the body and includes eyes, ears, limbs and internal organs caused through illness, by accident or congenitally.
- 3.2. **Mental impairments** include learning disabilities and mental illness (if it is recognised by a respected body of medical opinion).
- 3.3. For an effect to be **substantial** it means the effect of the physical or mental impairment on the ability to carry out normal day-to-day activities is more than minor or trivial. It does not have to be severe.

A **long term adverse effect** is one that has lasted or is likely to last overall for at least 12 months and the effect must be a detrimental one.

A **normal day-to-day activity** is something, which is carried out by most people on a fairly regular and frequent basis, such as washing, eating, catching a bus or turning on a television. It does not mean something as individual as playing a musical instrument to a professional standard or doing everything involved in a particular job.

4. The person must be **affected** in at least one of the respects below: -
- Mobility
  - Manual dexterity
  - Physical coordination
  - Continence
  - Ability to lift, carry or otherwise move everyday objects
  - Speech, hearing or eyesight
  - Memory or ability to concentrate, learn or understand
  - Perception of risk or physical danger

**Other conditions** are covered by provisions in the Act. These are: -

- Recurring or fluctuating conditions such as arthritis, sometimes less than substantial, treated as continuing to have a substantial adverse effect so long as that effect is likely to recur
- Conditions which progressively deteriorate, such as multiple sclerosis, which count as having a substantial adverse effect from the first time they have any effect at all
- Severe disfigurements which are treated as having substantial adverse effects even if they have no actual effect at all

[Section 18 of the 2005 Act amends the definition of disability in respect of people with mental illnesses; deem people with HIV infection, multiple sclerosis, or cancer to be disabled for the purposes of the DDA; and clarify that there is no implied limitation to the scope of the regulation-making power which enables people to be deemed to be disabled]

5. **Discrimination** occurs where one or more of the following concepts are contravened: -

- Less favourable treatment without justification
- Justification
- Reasonable adjustment

Less favourable treatment of a disabled person for a reason related to the disability cannot be justified where the reason for that treatment can be removed, or made less than substantial, by a reasonable adjustment.

6. **Reasonable adjustments** include: -

- Making adjustments to premises
- Reallocating part of the job to another person
- Transferring the person to fill an existing vacancy
- Altering the person's working hours
- Assigning the person to a different place of work
- Allowing absences during working hours for rehabilitation, assessment or treatment
- Providing appropriate training
- Acquiring or modifying equipment
- Modifying instructions or reference manuals
- Modifying procedures for testing or assessment
- Providing readers or interpreters
- Providing supervision

7. It is **reasonable to make adjustments** by considering the following factors:

- The effectiveness of the adjustment in preventing the disadvantage
- The practicality of the adjustment
- The financial and other costs of the adjustment and the extent of any disruption caused
- The extent of the employer's financial and other resources
- The availability to the employer of financial or other assistance to help make the adjustment