



Parkinson's
Disease Society

The Disability Discrimination Act 1995 (DDA 1995)

The Disability Discrimination Act of 1995 (as amended)

The Disability Discrimination Act was the first attempt in the UK to address the discrimination, faced by disabled people. The Act has been strengthened a number of times, most recently by the DDA 2005.

The amendments to the Disability Discrimination Act have extended the scope of the Act, which now covers:

- employment
- education
- providers of goods, facilities and services
- public authority functions
- private clubs
- landlords and the management and disposal of premises
- services in respect of transport vehicles

The Act also places new duties on public sector bodies. This new duty is called the Disability Equality Duty and requires public authorities to tackle disability discrimination in a practical way by introducing policies that actively promote opportunities and so prevent discrimination taking place.

How the Act defines disability

The Act covers discrimination against people who have a disability or have had a disability in the past. Disability is defined as “a physical or mental impairment, which has a substantial and long-term effect on a person’s ability to carry out normal day-to-day activities”.

By *impairment*, the Act includes sensory impairments, such as sight or hearing loss,

or mental impairments, including learning disabilities. The disability must have a long-term adverse effect. A person may have a number of minor disabilities that, combined, add up to a substantial impairment.

By *long-term*, it is meant that:

- a person has had a disability for longer than 12 months; or
- the disability is expected to last longer than 12 months; or
- in the case of a person expected to live for less than 12 months, the disability is likely to last for the rest of his/her life

Normal day-to-day activities are defined as:

- mobility
- manual dexterity
- physical co-ordination
- continence
- the ability to lift, carry or move ordinary objects
- speech, hearing or eyesight
- memory, or the ability to concentrate, learn or understand
- being able to recognise physical danger

Employment

The act provides protection in the following areas:

- Recruitment and selection
- Opportunities for training, promotion, transfer or any other benefit
- Dismissal or selection for dismissal
- Post employment (for example in relation to references)



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The act covers all employment (with the exception of serving members of the armed forces) and other relationships, including contract workers and trade organisations.

The employment protection provided by the Act also applies to police officers, office holders, partners in firms, barristers and advocates, qualifications bodies and people applying for or engaged in practical work experience.

The Act defines three types of unlawful discrimination and a separate unlawful act of harassment:

Direct discrimination

This is less favourable treatment on the grounds of a disabled person's disability (an employer treats that person less favourably just because they are disabled) and can never be justified.

Example: a blind person is not shortlisted for an IT job because the employer wrongly assumes that blind people cannot use computers. This is discrimination on the grounds of disability because the employer would not have made the same assumptions about a non-disabled person.

Failing to comply with a duty to make reasonable adjustments

This occurs when an employer or prospective employer fails to alter or amend a provision, criterion or practice, or any physical feature of their premises to remove the disadvantage a disabled person experiences.

Some examples of adjustments are:

- making adjustments to premises
- allocating some of the disabled person's duties to another person
- transferring the person to fill an existing vacancy

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- altering the person's hours of work or training
- assigning the person to a different place of work or training

An employer may have to take steps other than those listed, or a combination of steps in order to overcome the disadvantage experienced by the disabled person.

Disability-related Discrimination

This is less favourable treatment not on the grounds of but for a reason related to a disabled person's disability that the employer is unable to justify.

Example: an employee with cancer has three weeks absence for treatment and receives a written warning about sickness levels. Non-disabled employees taking three weeks sick leave would also receive the same warning. However, as the absence was related to disability, the warning is less favourable treatment and would be unlawful unless the employer could show the reason for the warning is justified.

Harassment

Harassment occurs when, for a reason which relates to a person's disability, another person engages in unwanted conduct which has the purpose or effect of:

- violating the disabled person's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment.

Example: An employee circulates by email a joke about people with autism. A colleague with autism receives the email and finds the joke offensive. This is likely to amount to harassment.



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The Government has produced a “Code of Practice for the elimination of discrimination in the field of employment against disabled persons or persons who have had a disability.” Also available is a booklet called *Employing disabled people – a good practice guide for managers and employers*. Both these are available from the Disability Rights Commission website at www.drc-gb.org in the Information and Legislation section.

Access to goods, facilities and services

From 2 December 1996, it has been unlawful for a provider of goods, services or facilities to discriminate in certain circumstances against a disabled person.

It is discriminatory if a provider seeks to provide goods, services or facilities:

- on different terms
- to a lesser standard to a disabled person
- refuses to supply goods, services or facilities to a disabled person

It is also unlawful for a service provider to refuse to change any policies, practices or procedures that make it impossible or unreasonably difficult for a disabled person to make use of their service.

A service provider would only be justified in treating a disabled person less favourably or failing to make adjustments if to do so would prevent the service being provided to the public or endanger the health and safety of any person.

Examples of service providers that would be covered by the Disability Discrimination Act include:

- banks
- building societies

- local authorities
- doctors
- theatres
- shops

Example: A person has problems with their handwriting as a result of their Parkinson's and a bank refuses to make a reasonable adjustment or provide an auxiliary aid. If the adjustment or auxiliary aid would allow the person to overcome the difficulties experienced in using the service, the bank's failure may be unlawful discrimination in the provision of services.

Examples of goods and services that have been successfully challenged under this section of the Disability Discrimination Act include:

Anniversary Package Trip

A couple celebrating a special anniversary were recently awarded compensation under the Disability Discrimination Act. Relatives of the couple had booked a package trip which included a play at a top theatre, a meal in a restaurant and a night in a four star hotel. When they telephoned to book, the company told them they could not use the 'package' because one of them was a wheelchair user. Neither theatre nor hotel had any disabled facilities.

Under the Disability Discrimination Act, the couple challenged this decision on the grounds that it was unlawful for service providers to offer a poorer service to a disabled person than they would to a non-disabled person because of an individual's disability. Compensation was paid as the result.



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Signatures on contracts

A national company told a woman customer that she was not capable of signing a contract, because of a neurological impairment that caused a tremor in her right hand (the one she wrote with).

The customer was shocked to find that the company had contacted her neighbour and had asked the neighbour to countersign the form, without her knowledge or permission.

As a result of intervention by the Disability Rights Commission and a court case, the company had to pay compensation to the customer in compensation for hurt feelings and the Disability Rights Commission's legal costs.

Private clubs

Since December 2005, the Act makes it unlawful for a private club with 25 members or more to discriminate against a disabled person, who is a potential member of the club:

- in the terms of membership
- by refusing or deliberately ignoring his or her application for membership.

The Act also makes it unlawful for a private club to discriminate against a disabled member or associate:

- in the way in which it gives access to any benefits
- by refusing, deliberately omitting, or depriving a member access to benefits
- by varying the terms of membership
- by subjecting them to any other detriment

The Act also provides certain protection for disabled people who are guests or potential guests of a private club.

Buying or renting land or property

It is unlawful for someone who is selling, managing or renting land or property to discriminate against a disabled person.

Discrimination includes:

- refusing to sell or let a property or offering a property for sale or rent on worse terms to a person with disabilities
- treating a person with disabilities less favourably in the maintenance of housing waiting lists or registers
- unreasonably preventing a tenant from using benefits or facilities, or not allowing him/her to use them in the same way as a landlord would allow other tenants to do
- evicting a tenant with disabilities for a reason connected with his/her disability or harassing him or her for this reason.

Education

The Special Education Need and Disability Act 2001 amended the DDA and brought education within the coverage of the Act. The Act makes it unlawful to discriminate against:

- disabled students
- disabled people applying to a school or college
- disabled people who are potential applicants to a school or college

Discrimination can take place in two ways, by:

- treating disabled people 'less favourably' than other people for a reason relating to their disability
- the failure to make a 'reasonable adjustment' when the student is put at a 'substantial disadvantage' compared with other students.

The Act applies to all schools and all aspects of school life, including:



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- school trips
- exclusions
- the design of the curriculum

The Act also applies to colleges and the services they provide to students, including:

- teaching
- careers services
- the design of the curriculum

A 'reasonable adjustment' may involve:

- changing the standard procedures of the college
- adapting the curriculum, the materials or equipment used in teaching
- adapting the way teaching is delivered or
- training staff to work with disabled people and to provide the adjustments they need.

There are, however, some cases where the Act says 'reasonable adjustments' don't need to be made:

- Schools don't have to provide 'auxiliary aids and services' (such as interpreters, lip-readers and note-takers) which would help someone in their studies.
- Schools do not have to remove or change physical features (parts of the school or college buildings, for example).

Whether an adjustment is reasonable will depend on, for example:

- how much money or other resources the school or college has
- how practical it would be to make the adjustment
- health and safety issues
- the need to maintain academic standards

Public Transport

The DDA gives the government (i.e. the Department of Transport, Local Government and the Regions) powers to make regulations relating to the design of and access to new build public transport vehicles, taxis and services. This means the government should be able to set minimum standards for new public transport vehicles (taxis, buses, coaches, trains and trams) so that disabled people, including people who use a wheelchair, can use them. More information on the use of transport vehicles can be found on the DRC website.

Further information and advice

The Equality and Human Rights Commission, which took over from the Disability Rights Commission in October 2007, produces a guide to the Disability Discrimination Act 1995 and what you can do if you feel that you have been discriminated against by a service provider. They can also advise further on the Act on a nationwide basis. Contact details are:

England

Helpline: 0845 604 6610 (Monday, Tuesday, Thursday and Friday, 9am–5pm, Wednesday, 9am–8pm)

Wales

Helpline: 0845 604 8810 (hours as above)

Scotland

Helpline: 0845 604 5510 (hours as above)
Website: www.equalityhumanrights.com

If you live in Wales, Northern Ireland or Scotland, you can contact the disability organisations for your particular country as well.



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This is particularly important if you have a query relating to the provision of education.

Wales

Disability Wales/Anabledd Cymru
Tel:029 2088 7325
Email: info@disabilitywales.org
Website: www.disabilitywales.org

Northern Ireland

Disability Action
Email: information@disabilityaction.org
Website: www.disabilityaction.org

Scotland

Enable
Tel: 0141 226 4541
Email: enable@enable.org.uk
Website: www.enable.org.uk

Employment

If your query relates to employment then ACAS (the Advisory, Conciliation and Arbitration Service for employment) can advise. It has a helpline giving free help and information on work issues:

Helpline: 08457 47 47 47 (Monday–Friday, 8am–6pm) Textphone: 08456 061 600 (Monday–Friday, 8am–6pm)

The PDS may also be able to advise on employment issues relating to the Disability Discrimination Act. Call the PDS Helpline on 0808 800 0303 or email enquiries@parkinsons.org.uk

Acknowledgement

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Helpline: 0808 800 0303. (The Helpline is a confidential service.
Calls are free from UK landlines and some mobile networks)
Email: enquiries@parkinsons.org.uk **Website:** www.parkinsons.org.uk

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To obtain any PDS resource, please go online to www.parkinsons.org.uk or contact Sharward Services Ltd, the appointed PDS Distribution House, at Westerfield Business Centre, Main Road, Westerfield, Ipswich, Suffolk IP6 9AB, tel: 01473 212115, fax: 01473 212114, email: pds@sharward.co.uk