

## **Information on the Disability Discrimination Act (DDA) For Supporting People Providers**

*This briefing paper does not provide legal guidance, neither is it to be regarded as a substitute for reading the legislation*

### **The Disability Discrimination Act 1995: What Supporting People providers need to know**

#### **Background:**

On December 2 1996, the Disability Discrimination Act 1995 brought in measures to prevent discrimination against disabled people. Part III of the DDA places duties on those providing goods, facilities or services to the public and those selling, letting or managing premises. These duties make it unlawful for service providers, landlords and other persons to discriminate against disabled people in certain circumstances.

The D. D. A. introduced duties in relation to service providers in three stages:

1. since 2 December 1996 it has been unlawful for service providers to treat disabled people *less favourably* for a reason related to their disability,
2. since 1 October 1999 service providers have had to made *reasonable adjustments* for disabled people, such as providing extra help or making changes to the way they provide their services and
3. from 1 October 2004 service providers may have to make other *reasonable adjustments* in relation to the *physical features* of their premises to overcome physical barriers to access.

#### **Context:**

Meeting the requirements of disabled service users is an important part of any service provider's agenda. The Disability Rights Commission (DRC) estimate that there are over 8.5 million disabled people in Britain, this means that many current and potential service users of supported housing services may be disabled.

We appreciate that many Supporting People providers will already be doing much to address the requirements of disabled service users. It is important to spread the context of what is a disability, as it is easier to determine what the needs may be for a wheelchair user. But much more common impairments such as hearing impairments, visual impairments, heart conditions or restricted mobility are less easy to determine.

It is important to recognise and acknowledge that many disabled people who use your accommodation require very little or no additional changes.

This guide contains practical suggestions about ways in which you can improve the quality of service you offer to disabled service users.

#### **The Law has determined a disabled person is:**

*“...a person has a disability for the purposes of the Act if he (sic) has a physical or mental impairment which has a substantial and long term adverse effect on his ability to carry out normal day to day activities”.*

The Disability Discrimination Act uses a broad definition of disability that embraces people with a range of impairments. This includes:

People who are blind or partially sighted  
People who are deaf or hard of hearing  
People who have heart conditions  
People with epilepsy  
People who have problems with continence.  
People who have insulin dependent diabetes.  
People with Downs Syndrome  
People with Dyslexia  
People who have arthritis  
People who are wheelchair users  
People who have experienced mental health problems  
People with learning difficulties.  
People with severe facial disfigurements

This broad definition shows that a number of your existing service users may fall under this Act, as not all disabilities are easily identifiable.

The day-to-day activities affected by the impairment include:

- mobility
- manual dexterity
- physical co-ordination
- continence
- ability to lift, carry or otherwise move everyday objects
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand; or
- perception of the risk of physical danger

**Who is a service provider?:**

Subject to certain exceptions, Part III of the Act applies to any person or any organisation that is concerned with the provision of services, including goods or facilities to the public or a section of the public. The service provider may be in the private, public or voluntary sector. The types of services that are covered include those that are provided free, or in return for payment.

This extends to all those involved in providing the service. Including all staff members, full and part time, temporary and permanent, volunteers, contractors and others working in partnership to provide the service.

**What does the DDA expect you to do?:**

The Disability Discrimination Act means that service providers **CAN NOT** discriminate against disabled people. A service provider discriminates when they treat a disabled person less favourably for a reason related to the person's disability, than they would treat others to whom that reason doesn't apply, and the service provider can't show that the treatment is justified.

The provisions of the Act have been applied in a staged process since its enactment.

*Since 1996* it has been illegal to:

- ***refuse to serve somebody on the grounds that they have a disability:*** for example, it would be illegal to refuse to accept a referral of a service user simply because they had a disability.
- ***deliberately provide a poorer quality of service to disabled people:*** for example, taking longer to respond to a disabled persons request for advice or information.
- ***or apply terms that are unreasonable for a disabled person to use your service:*** for example, applying stricter rules to a service user because they have a disability, or charging a disabled service user more rent than non-disabled service users.

*Since 1999* service providers have been expected to:

- ***Provide auxiliary aids and services to disabled service use:*** for example having an induction loop system on a television in a communal lounge, or having at least one member of staff trained in Sign Language
- ***To amend their policies, practices and procedures so that disabled people can better access their services:*** for example amending a no dogs policy so that service users with assistance dogs are admitted.
- ***Provide a reasonable alternative method of making its services available to disabled people where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of its services.*** A reasonable alternative method might include allowing a person with a mobility impairment to use a side entrance that is more accessible than the main entrance.

*From October 2004* the DDA also expects service providers to make ‘reasonable’ adjustments to physical make up of a building that make it impossible or unreasonably difficult for disabled people to make use of services.

Reasonable steps might include:

- removing temporary obstacles that might restrict manoeuvring space, for example display stands, or pieces of furniture from public areas
- repainting doors to ensure that better colour contrasts are created for visually impaired service users
- ensuring that the edges of stairs are clearly defined
- making better access for disabled people who are wheelchair users
- referring a service user to another facility, in an acceptable location, that meets their requirements
- providing meals in a service users room if the dining room is inaccessible, if this is acceptable to the service user.

### **What are reasonable adjustments?:**

It is a landmark in the legislation that there has been this duty of ‘reasonable adjustments’ placed on the providers. However the DDA does not include a definition of “reasonable”, although it is thought that this will be determined through the legal process where disputes under the DDA are heard in the civil courts.

The DRC have issued some guidance and says that deciding what is reasonable depends on a number of key factors:

- whether taking any particular steps would be effective in overcoming the difficulty that disabled people face in accessing the service in question
- the extent to which it is practicable for the service provider to take the steps
- the financial and other costs of making the adjustment
- the extent of any disruption which taking the steps would cause
- the extent of the service provider's financial and other resources
- the amount of any resources already spent on making adjustments
- the availability of financial or other assistance

The above indicate that the Act has taken into consideration that different approaches can be used that reflect the size and nature of a particular business. Therefore the way in which a local authority or a national RSL responds to the requirements of disabled service users may be different to the way in which a business run by a local voluntary organisation, or a small private provider operates.

The law does not expect organisations to have to respond to unreasonable requests.

#### **Anticipating Needs:**

The Code of Practice states that service providers must anticipate the likely requirements of disabled service users, not just respond to requests from individuals. This means that you should be thinking through your services from the perspective of disabled service users. You must critically evaluate your services from the perspective of disabled service users, and consider what additional aids, changes to day-to day practices or physical changes could be made to better accommodate the requirements of disabled service users.

#### **Making your service accessible:**

##### Publicity materials

Do you encourage applications from disabled service users? Check your leaflets, if you have rooms which specifically meet the needs of a wheel chair user, make sure this is included. Alternatively you could add a general statement saying that you welcome enquiries from disabled service users, and that you are happy for a potential service user to discuss any additional requirements they have with you directly.

Additionally you need to consider:-

- *Do you have a website, if so is it accessible?* There are easy ways to make your web pages more accessible for disabled service users. For example the font size you use for text could be increased to benefit service users with a visual impairment. Equally the colour contrasts you use may be difficult for somebody with a visual impairment to navigate.

It is also helpful if your website contains information about any additional facilities that you may have that will benefit disabled service users. If you have particular services that you can provide for disabled service users, mention them. Information about physical access should also be included.

- *Publicity Leaflets.* Like your website these need to be available so that service users with a visual impairment can read them. Again they need to contain information about your facilities and any particular provision that you can make for disabled service users. Using plain English is considered good practice generally, but will be of particular benefit to people with learning difficulties.
- *Referring agencies:* It is important that you let your key referring agencies know about any facilities that you may have. Likewise, the Supporting People directory, both local and national, holds information on disabled facilities, therefore you should ensure that both of these documents hold the correct information for your services.

### **Dealing with Referrals and conducting Needs Assessments:**

Where possible ensure all questions are inclusive rather than being aimed specifically at someone who would have an obvious disability. We have already suggested that needs assessment forms should have a questions relating to preferred communication method, but this can be taken a step further. For example, if a prospective service user does say that they would prefer a support worker to talk through letters with them due to being dyslexic, you can lead onto another question relating to any other impairment which they may have as a result of this.

Ensure your staff are trained to listen to the person they are talking to, not just to hear what they are saying. Many people will not offer information about disabilities at the outset of a conversation and it may only become apparent that a person has a disability through listening and careful questioning.

### **Promoting facilities at your service:**

It is worth highlighting any particular facilities that you have in place, so that all service users are aware of them. For example if you have an induction loop in your residents lounge you could have a relevant sticker on display showing this facility, you can mention this to everybody at induction and include it in your service user handbooks.

In your guides to local facilities you should advise which are accessible to disabled people.

If you require service users to complete any forms, it may be that some service users will require help with completion, for example somebody who has arthritis and may have problems gripping a pen. You could also provide a magnifying sheet for service users who are visually impaired, so that they can complete any forms themselves, if this is their preference.

### **Other areas to consider:**

When you show a service user to their room, it is important that you check that the room meets their requirements, or if there is anything additional that they may need. It may be worth checking with service users that they have everything they need a short period after they have settled in. Again this is consistent with best practice for all service users, and not just disabled service users.

Where it has been identified that someone has a disability, you must ensure that they understand all fire and other evacuation procedures.

### **Communal Rooms:**

The residents lounge and dining room (if applicable), should be accessible to all service users including disabled service users. This may simply involve ensuring that there is sufficient room for disabled people who are wheelchair users, or who have restricted mobility to move around the room. It may not be necessary for these changes to be permanent, in the case of short term accommodation, it may just be the case of temporarily moving obstacles out of the way.

### Exit Surveys:

This is a good opportunity to gain feedback about the quality of your provision. Were any additional needs met? Often the feedback you receive from disabled service users will be no different to that given to you by your non-disabled service users. Equally it is pointless in having totally accessible premises if the quality of the service you have provided has been insufficient.

### Action Plan for Providers:

Objective	Comments
Widen your definition of disability	Think about your décor – are the colours sufficiently contrasting to help visually impaired people. If you have a communal TV room, do you have a loop? These do not require any physical changes to your building
Reasonable adjustments	We do not expect sledge hammers to be taken to walls and ramps installed, however, we would like consideration to be given the current set up of your service. Evidence should be kept that shows such consideration has been given and reasons why the changes are not possible rather than just attributing it to being too costly.
Accessing your services	For further information on making your services more accessible, or to undergo an accessibility audit please contact <a href="http://www.cae.org.uk">www.cae.org.uk</a>
Short & long term plans	Where it has been identified that re-decoration will be done, try to incorporate the needs of visually impaired people, where kitchens are to be done, work in some basic changes which could benefit someone with impaired mobility
Publicity	Consider your distribution lists to ensure you are promoting your services in locations where disabled people will go. Look at your leaflets and make appropriate changes and incorporate them next time you have them printed. The RNIB website offers suggestions for making web pages more accessible.
Needs assessments forms	Check your forms to ensure that they incorporate questions which could address issues of disability - remember these should be inclusive questions.
Consult	When you make small changes, make sure they are effective and actually meet the need to which they were intended. Before you make big changes, consult with local disability groups.

These are areas which we believe support providers should be giving some consideration to, but we cannot impose any actions onto providers. There is further information on how this Act has affected the provision of accommodation, and this should be read by those providers who are also landlords and managing agents. This information can be accessed at : [www.rnib.org.uk](http://www.rnib.org.uk) You will need to search for DDA, and then on the housing option.