

Equality Commission

FOR NORTHERN IRELAND

# Definition of Disability



The Disability Discrimination Act 1995

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

It is available in a range of alternative formats and languages on request. Please contact the Equality Commission, contact details for which can be found on the back page of this booklet.

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	Page
<b>1. What the Disability Discrimination Act 1995 means by disability</b>	<b>2</b>
<p>“A <b>physical or mental impairment</b> which has a <b>substantial</b> and <b>long-term adverse effect</b> on a person's ability to carry out <b>normal day-to-day activities.</b>”</p>	
1.1 Explanation of Impairment	
1.2 Explanation of Substantial	
1.3 Explanation of Long-term	
1.4 Explanation of Day-to-day activities	
<b>2. Particular cases or conditions</b>	<b>4</b>
2.1 Severe disfigurements	
2.2 Impairments helped by treatment or artificial aids	
2.3 Progressive conditions	
2.4 Cancer, HIV and multiple sclerosis	
2.5 Recurring or fluctuating conditions	
2.6 Genetic predispositions	
2.7 Past disabilities	
2.8 Babies and children under the age of six	
2.9 Impairments which are excluded	
<b>3. Other information about the Disability Discrimination Act 1995</b>	<b>7</b>
3.1 Other Equality Commission for Northern Ireland information booklets	
3.2 Codes of Practice	

# 1. What the Disability Discrimination Act 1995 means by disability

This booklet outlines what Part One of the Disability Discrimination Act (DDA) and related regulations mean by the term "disability". The DDA covers disabled people and people who have had a disability in the past.

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.**

## 1.1 Explanation of Impairment

The definition covers physical and mental impairments. These include:

- physical impairments affecting the senses such as sight and hearing, heart disease, diabetes, epilepsy
- mental impairments including learning disabilities and mental ill health.

## 1.2 Explanation of Substantial

For an effect to be substantial, it must be more than minor. The following are examples that are likely to be considered substantial:

- inability to see moving traffic clearly enough to cross a road safely
- inability to turn taps or knobs
- inability to remember and relay a simple message correctly.

## 1.3 Explanation of Long-term

These are effects that:

- have lasted at least 12 months; or
- are likely to last at least 12 months; or
- are likely to last for the rest of the life of the person affected.

Long-term effects include those, which are likely to recur. For example, an effect will be considered to be long-term if it is likely both to recur, and to do so at least once beyond the 12-month period following the first occurrence.

#### **1.4 Explanation of Day-to-day activities**

Day-to-day activities are normal activities carried out by most people on a regular basis, and must involve one of the following broad categories:

- mobility - moving from place to place
- manual dexterity - for example, use of the hands, wrists or fingers
- physical co-ordination
- continence
- the ability to lift, carry or move ordinary objects
- speech, hearing or eyesight
- memory, or ability to concentrate, learn or understand
- being able to recognise physical danger.

The Government has issued guidance, under the DDA, about whether an impairment has a substantial or long-term effect. This guidance does not in itself impose legal obligations on an employer or service provider, but a tribunal or court must, when considering a complaint about discrimination, take into account any of the guidance, which appears to be relevant.

## 2. Particular cases or conditions

### 2.1 Severe disfigurements

The DDA's definition treats severe disfigurements as disabilities, although they have no effect on a person's ability to carry out normal day-to-day activities.

If, however, the disfigurement consists of a tattoo which has not been removed, and non-medical body piercing, or an object attached through such a piercing, regulations have the effect of ensuring that this would not be treated as a disability.

### 2.2 Impairments helped by treatment or artificial aids

Medication or equipment (such as an artificial limb) which helps an impairment, is not taken into account when considering whether an impairment has a substantial effect.

For example, a person who wears a hearing aid to improve their hearing is considered to have the hearing loss that would exist without the use of the aid.

For example, a person who manages their diabetes with insulin is considered to have the diabetes that would exist without the insulin treatment.

An exception is when people wear glasses or contact lenses - it is the effect on the person's vision, while wearing their glasses or contact lenses, that is considered.

If, however, the treatment is likely to cure the impairment, this should be taken into account in assessing whether the impairment is long-term.

### 2.3 Progressive conditions

The DDA covers progressive conditions where impairments are likely to become substantial. Examples of progressive conditions include:

- Cystic fibrosis
- Alzheimers disease
- Huntingtons chorea
- Muscular dystrophy
- Motor neuron disease

The DDA covers people with these conditions from the moment that there is a noticeable effect on normal day-to-day activities, however slight, not when there is a substantial effect as with conditions that are not progressive.

## **2.4 Cancer, HIV and multiple sclerosis**

People with cancer, HIV or multiple sclerosis are deemed to be disabled people from the point of diagnosis, regardless of whether or not they have any symptoms.

## **2.5 Recurring or fluctuating conditions**

Conditions such as arthritis where the effect can sometimes be less than substantial are treated as continuing to have a substantial adverse effect so long as the effect is likely to reoccur.

## **2.6 Genetic predispositions**

The DDA does not cover people with a gene that causes a disability unless they develop the disability.

For example, people with the gene that causes Huntington's chorea are not covered if they do not have the condition. People are covered as soon as the first effects on normal day-to-day activities appear.

## **2.7 Past disabilities**

The definition covers people who have had a disability in the past. If a person once had a disability which is covered by the DDA, they are still protected even if they have now recovered. This applies even if they recovered before the DDA came into force.

## 2.8 Babies and children under the age of six

It may be difficult to see the effects of an impairment on a baby or young child and thus determine if he or she is disabled. However, a young child with an impairment will be treated as disabled under the DDA if someone over the age of six with such an impairment would normally be covered by the DDA.

## 2.9 Impairments which are excluded

The following conditions are not to be treated as impairments for the purposes of the DDA:

- addiction to or dependency on alcohol, nicotine or any other substance (unless the addiction resulted from the substance being medically prescribed)
- seasonal allergic rhinitis (e.g. hayfever) except where it aggravates the effect of another condition
- a tendency to set fires
- a tendency to steal
- a tendency to physical or sexual abuse of others
- exhibitionism
- voyeurism.

## 3. Other information about the Disability Discrimination Act 1995

### 3.1 Other Equality Commission for Northern Ireland information booklets

There are a number of other publications available free from the Equality Commission for Northern Ireland (ECNI). For a full publications list please contact the ECNI. Contact details are printed on the back page of this booklet.

All publications are available in alternative formats on request. Publications can also be downloaded from the internet at [www.equalityni.org](http://www.equalityni.org)

### 3.2 Codes of Practice

Codes of Practice provide guidance to employers, service providers and people involved in selling, letting or managing property on the Disability Discrimination Act and must be taken into account by courts and tribunals where relevant. These are available from the Equality Commission for Northern Ireland or can be downloaded from the internet at [www.equalityni.org](http://www.equalityni.org)

- Code of Practice - Rights of Access - **Goods, Facilities, Services and Premises**
- Disability Code of Practice - Employment and Occupation
- Disability Code of Practice - Trade Organisations and Qualifications Bodies
- Disability Discrimination Code of Practice - Further and Higher Education
- Disability Code of Practice - Schools





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# How can we help?

The Equality Commission for Northern Ireland can give advice and information on the Disability Discrimination Act 1995 through training, telephone, textphone and e-mail advice, booklets and leaflets or we can meet with you.

For further information, please contact us at:

Promotion and Education Division  
Equality Commission for Northern Ireland  
Equality House  
7-9 Shaftesbury Square  
Belfast BT2 7DP



Telephone: 028 90 890 890



Textphone: 028 90 500 589



Fax: 028 90 248 687



Email: [information@equalityni.org](mailto:information@equalityni.org)



Website: [www.equalityni.org](http://www.equalityni.org)

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