

Equality Commission

FOR NORTHERN IRELAND

A Guide For Everybody

Disability Discrimination Law



Employment



Education



Housing



Goods / Services

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A guide for everyone

The Disability Discrimination Act (DDA) 1995 makes treating disabled people less favourably than other people, without justification, unlawful in areas such as buying goods, using services, finding somewhere to live, in education and getting a job. This booklet will help disabled people to get to know and use their rights, and it will help everyone to understand their responsibilities.

1. Why have we got disability discrimination laws?

Disabled people can find that, for no good reason, they are not given the same opportunities as others. Perhaps through prejudice or not discussing matters with a disabled person, it is assumed he or she can not carry out a task or use a service.

For example, an employer might turn down someone who cannot hear well for a job involving using the phone without considering whether an adapted phone, for instance, would enable the applicant to do the job perfectly well.

This is an example of a disabled person being treated less well - not because they cannot do something, but because someone happens to think they cannot. Disability discrimination legislation makes this kind of direct discrimination, resulting from a person's disability, unlawful.

“Everyday, disabled people are discriminated against at work, at the shops or in social situations.”



2. Who has rights and responsibilities because of disability discrimination laws?

2.1 Who has rights under the DDA?

Disabled people have rights in the areas of:

- obtaining goods, services and facilities
- employment
- buying or renting land or property
- education

What is meant by disabled?

The definition in the DDA is intended to cover people who would generally be regarded as disabled. Under the DDA, 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.”

For example people with:

Learning Disabilities	Hearing Disabilities
Speech Disabilities	High Blood Pressure
Physical Disabilities	Brain Injury
Epilepsy	Diabetes
Mental Ill Health	Visual Impairment
Arthritis	Cancer
HIV	Multiple Sclerosis

The main meaning of **long-term** is lasting, or being likely to last, at least 12 months and there has **to be an effect in one of a number of areas** listed in the DDA.

The areas are:

- 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, and
- perception of the risk of physical danger.

People with what are commonly known as **learning disabilities** or with long-lasting **mental ill health** could clearly also fit within this definition (depending on the particular effects on each individual).

There are many disabilities where it **may not be immediately obvious whether they fit into this main definition**. The DDA therefore includes provisions to ensure that the following sorts of conditions generally count as disabilities:

- People with some long-lasting or permanent conditions, such as arthritis, can experience **periods without substantial effects**.
- Some long-lasting or permanent conditions, such as multiple sclerosis, are likely to deteriorate over time until they have substantial effects, but may in the **earlier stages only have very small effects**.
- Some long-lasting or permanent conditions, such as diabetes, can have their substantial effects greatly reduced or **removed by medication** or other treatment.
- **Severe disfigurements** may have no effects at all.

The position in any individual case will depend on the precise facts.

In addition, regulations made under the DDA ensure that a number of conditions (such as alcoholism or nicotine dependency) do not count as disabilities.

And, finally, the rights under in the fields of employment, provision of goods, facilities and services, the management, sale and letting of premises and education **also apply to people who have had a disability in the past**.

Anyone who was registered disabled under the Disabled Persons (Employment) Act (Northern Ireland) 1945 both on 12 January 1995 and 2 December 1996 will be regarded as having had a disability in the past, if they do not in any case fall within the definition of the DDA.

Where there is a dispute regarding whether or not a person meets the definition of being disabled, only an Industrial Tribunal or County Court can decide if that person meets the definition, as stated in the DDA.

2.2 Who has responsibilities?

Many people have a duty not to discriminate against disabled people. They include:

- organisations (no matter how large or small) and everyone involved in providing any kind of goods, facilities or services to the public (unless exempted – see section 4)
- those involved in the area of employment (no matter how large or small, see section 5)
- those selling, renting or managing land or property (see section 6)
- those involved in the provision of education, including schools, colleges and universities (see section 7)



3. What is discrimination?



3.1 Employment

Under the Disability Discrimination Act, discrimination occurs where:

- a disabled person is **treated less favourably** than someone else on the grounds of his/her disability (direct discrimination)
- a disabled person is **treated less favourably** than someone else and the treatment is for **a reason relating to the person's disability**; and this treatment **cannot be justified** (disability related discrimination)
- there is a **failure to make a reasonable adjustment** for a disabled person
- **victimisation** occurs
- a disabled person is subjected to **harassment** for a reason which relates to the persons disability

3.2 Provision of goods, facilities and services



Under the Disability Discrimination Act, discrimination occurs where:

- a disabled person is **treated less favourably** than someone else and the treatment is for **a reason relating to the person's disability**; and this treatment **cannot be justified**
- there is a **failure to make a reasonable adjustment** for a disabled person

3.3 Education



Under the Special Educational Needs and Disability Order, discrimination occurs where:

- a disabled pupil or student or prospective pupil or student is **treated less favourably** than someone else and the treatment is for **a reason relating to the pupils or students disability**; and this treatment **cannot be justified**
- there is a **failure to make a reasonable adjustment** for a disabled pupil or student
- **victimisation** occurs



4. Goods, facilities and services

4.1 What organisations are covered?

All organisations that provide goods, facilities or services to the public, whether paid for or free, are covered by the Disability Discrimination Act - no matter how large or small they are.

Those affected include hotels, shops, pubs, mail order or telephone order businesses, government departments, courts, employment agencies, local council services, law firms, doctors' clinics, churches and amenities such as parks.

The use of any means of **transport** is currently excluded. However, the services connected to transport are affected by the Disability Discrimination Act, such as stations, airports and booking facilities. There are also particular rules relating to taxis and the carriage of assistance dogs.

Educational services are covered under the Special Educational Needs and Disability Order (SENDO). For details see section 7.

4.2 When does discrimination take place?

If a disabled person meets with any of the following kinds of treatment, they are facing discrimination:

- a. **Service is refused** or a customer is ignored because of a reason connected with his or her disability, whilst others are treated better.

For example:

A newsagent says people with learning disabilities from a nearby training centre cannot use his shop to buy snacks at lunchtime because the attention they need delays service to other customers. He is discriminating against them because of their disability. This is unlawful.

- b. A **worse service** is provided or the disabled person is served in an inferior way.

For example:

Martha has difficulty in managing to eat because of a disability. When she returns a second time to a restaurant, the waiter shows her to an out-of-the-way table, even though other customers are allowed to sit at unreserved tables with the sea view she enjoyed last time. The reason he is treating her less favourably is because of a disability and does not apply to the other customers. He is acting outside the law.

- c. The **terms of service** are not as good as other people obtain. This includes charging more or imposing extra restrictions.

For example:

It would be unlawful to charge a disabled person a higher deposit because of an unfounded belief that they were more likely not to complete the purchase.

- d. A **reasonable adjustment is not made** so that disabled people can use a service.

4.3 More about reasonable adjustments

Where it is **impossible, or unreasonably difficult**, for a disabled person to use a service, a service provider must take **reasonable steps** to:

- e. **change its practices** (what it does), **policies** (what it intends to do) or procedures (how it plans to go about it).

This could involve waiving a practice or amending a policy to allow exceptions or abandoning it altogether. Often, such a change involves little more than an extension of the courtesies which most service providers already show their customers.

For example:

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

- f. **provide a reasonable alternative method** for making their services available to disabled people, where a physical feature makes it impossible or unreasonably difficult to use these services.

For example:

A 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.

- g. **provide an auxiliary aid or service** if that would enable or make it easier for disabled people to use their services. This might be a piece of equipment or just extra help from trained staff.

For example:

A petrol station decides that an assistant may help disabled people use the petrol pumps on request. It places a prominent notice at the pumps advertising the assistance and the hours that it is available.

Seats made available in queues



Ramps in public buildings



Menus in braille or large print



Allowing guide dogs into public buildings



Textphone service for deaf people



4.4 Adjustments to the physical environment

New duties were introduced in October 2004, which require service providers to consider **removing, altering or avoiding** a physical feature that creates a barrier to access for disabled people. A physical feature includes:

- any feature arising from the design or construction of a building on the premises occupied by the service provider
- any feature on those premises or any approach to, exit from or access to such a building
- any fixtures, fittings, furnishings, furniture, equipment or materials on such premises, including steps, kerbs, internal and external doors, toilet and washing facilities, lighting, signs and furniture
- all features are covered whether temporary or permanent. A building means an erection or structure of any kind

For Example

Display units at the entrance of a small shop restrict the ability of wheelchair users to enter the shop. The shop owner decides that without any loss of significant selling space, the display units can be removed and repositioned elsewhere in the shop. This is likely to be a reasonable step for the shop to take.

4.5 Is it ever ok to treat a disabled person less favourably or not make reasonable adjustments?

The Disability Discrimination Act recognises that in a limited number of circumstances it is not always possible to give disabled people exactly the same service as other people. It might be possible for service providers to treat a disabled person less favourably or not make a reasonable adjustment if they **reasonably believe** that one of the following circumstances applies:

- a. **Health or safety** - No one is required to do anything that would endanger the health or safety of any person, including the disabled person.

For example:

David is ten years old and has cerebral palsy. He was about to use the local swimming pool, when the new manager stopped him because he believed David was unable to swim. In the absence of further information this might have been within the law. But when an attendant who had taught David in a swimming class explained he could swim, it would have been unlawful for the manager to continue to refuse him.

- b. **Making contracts** - A trader might refuse to enter into a contract with someone who cannot understand the nature of the contract because of a disability. This does not mean that a trader can refuse service simply on the assumption that the disabled person cannot understand any kind of contract. It may only be complex ones that cause a problem.

For example:

A shopkeeper could refuse to rent a camcorder to Rob, who has Alzheimer's Disease, if he reasonably believes Rob does not understand he has to return it at the end of the week. But the shop is no longer justified when Rob's brother, with power of attorney, offers to undertake the contract.

- c. **Providing a service to others** - A disabled person could be refused a service if it would mean the service could not be provided to others at all.

For example:

Barry's disability causes him to shout frequently. Because he made a lot of noise during a recent performance at the local cinema, the manager refuses to let him in a second time, as his behaviour makes it impossible for other people to watch the film. Excluding Barry may be within the law.

- d. **Charging more** - A disabled person cannot be charged more for the same goods or services than anyone else. However, if a special service is provided or goods made which cost more in labour or materials, the disabled person can be charged more.

For example:

A person with a spinal injury may be charged more for a made-to-measure chair, which has required more work than one straight from a showroom.

- e. **Protecting the fundamental nature of a business or service** - An adjustment does not have to be made that would fundamentally alter the nature of the service, profession or business.

For example:

A night-club 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.

4.6 Is there anything to stop a disabled person being given more favourable treatment?

No. A theatre manager can, for instance, offer people who are hard of hearing front stall seats at rear stall prices; football clubs can reserve pitch-side places for wheelchair users; and historic houses can offer concessionary prices for disabled people.

“Small adjustments could make a big difference.”



5. Employment

5.1 What employers have responsibilities?

The Disability Discrimination Act makes it against the law for **all employers** to discriminate against disabled employees or job applicants. Disabled people also have rights under the Disability Discrimination Act in what are known as 'other working relationships', this includes partners in firms, barristers and those work experience placements for the purposes of vocational training.

Trade organisations such as trade unions and **qualifications bodies** such as the Law Society also have the same duties as employers not to discriminate against disabled people who are members or potential members or those who hold or are working to achieve a qualification.

The Armed Forces are currently the only occupation **not covered** by the employment provisions of the DDA.

Every aspect of the job is covered - including recruitment and selection, doing the work, promotion, career development and redundancy or dismissal.

For example:

An employer prefers all employees to have a certain level of educational qualification. Jo has a learning disability, which has prevented her from obtaining the preferred qualification. She is turned down for a job because she does not have that qualification. If that qualification is not necessary in order to do the job and she is otherwise the best candidate, then the employer will have discriminated unlawfully against her.

5.2 Reasonable adjustments in employment

It may be that the **physical features** of an employer's premises or the **working arrangements** put a disabled person at a substantial disadvantage compared with non-disabled people. If that is the case, the employer must take such steps as it is reasonable for him to have to take in the circumstances to prevent that disadvantage. This duty applies both to job applicants and to those currently employed.

If a reasonable adjustment could overcome any significant disadvantages, an employer would have to be able to justify not offering a job to a disabled person. Without such a reason, the employer is likely to have discriminated.

For example:

Ellen is an excellent word processor operator, but her arthritis means her typing is a little too slow to pass a local company's standard test. She suggested that a different design of keyboard would overcome the problem. The personnel manager agreed to appoint her and buy one. This was a reasonable adjustment.

What sort of adjustments might a disabled person find helpful for an employer to make?

Some examples include:

- **Altering premises** - Painting parts of an interior in contrasting colours to help a visually impaired worker to find their way around.
- **Transferring some duties** - Arranging for a person with dyslexia not to have to write the occasional letter if this were not essential to the job and could be given to someone else.
- **Transferring individuals** - Moving an employee who develops mobility problems from an outdoor job to a desk job.
- **Altering working hours** - Allowing someone to work different hours to fit in with the availability of a carer.
- **Changing the place of work** - Moving the workstation of a wheelchair user from a difficult-to-reach third floor location to a much more accessible one on the ground floor.
- **Arranging extra training** - Sending a visually impaired person to a course on using a computer with speech output.
- **Equipment changes** - Providing a telephone with text display for use by a deaf person

- **Changing instructions or manuals** - Providing a braille version for a blind person or simplified instructions for someone with a learning disability.
- **Training, mentoring or support** – Employing a support worker to assist an employee with a learning disability.
- **Changing policies** – Such as sick absence, disciplinary or grievance policies to ensure they are not discriminatory.

When is it reasonable for an employer to have to make an adjustment?

That depends on all the circumstances involved, such as the **cost** in relation to the resources of the organisation, **how effective** it would be and the availability of any outside **funding or practical assistance**. Often an adjustment costs little or nothing, as in fitting brighter lights or rearranging a workplace layout.

44% of reasonable adjustments cost **less than £50** to implement¹

5.3 Reasonable adjustments - recruitment and selection

It is unlawful to discriminate against a disabled person in **the arrangements for deciding who should get the job**, such as **job descriptions and interviews**. When drawing up a job description, employers should bear in mind that including requirements which have little to do with the actual work can lead to discrimination, as they may exclude people with certain disabilities who could do the job. Employers should be aware that it is unlawful to publish **discriminatory advertisements**, for example, it is likely to be discriminatory to ask for a driving licence as a qualification for an office job involving a small amount of travelling, which a disabled person with mobility problems could do by other means, such as taking a taxi or catching a bus.

[1 Integrating Disabled Employees, Department for Education and Employment Research - Report 56.]

It is also against the law to rule anyone out simply because an employer **assumes** that a particular disability might make them unable to meet one of the job's requirements.

For example:

The manager of a messenger firm believes that Paul cannot be relied upon to be punctual - a key part of the job - because he has a learning disability. He ignores Paul's excellent record of time-keeping in his last job and turns him down. As the manager has refused to properly consider Paul's application, he has treated Paul less favourably, for a reason related to his disability, than he would have treated someone without such a disability. The treatment cannot be justified and is therefore unlawful discrimination.

Because employers have a duty to make reasonable adjustments, when a disabled person is **short-listed** it is a good idea to discuss in advance any special arrangements that would help the candidate.

For example:

The personnel manager of an insurance company was well prepared for the arrival of Joanne, who had told him in her application about her hearing impairment. He made sure his face was well-lit and was careful to face Joanne directly and speak clearly to assist lip-reading, and he was happy to repeat questions. The Disability Discrimination Act does **not stop employers asking disabled candidates about their disability**, but only if it is, or may be, relevant to the person's ability to do the job. Of course, the employer must not use any information provided to discriminate against the disabled person. Asking questions could also help employers foresee what changes, if any, might need to be made to enable the disabled person to do the job.

Application
Forms in
braille or large
print



Use symbols
instead of
words



5.4 Reasonable adjustments - at work

All aspects of doing a job come under the DDA. An employer has to make reasonable adjustments to overcome any substantial disadvantage caused by the **physical features of premises or the employment arrangements**, including any provision, criterion or practice. These examples cover just some of them.

For example:

Fixing handrails for someone who needs them to help in getting about might be reasonable for a firm to have to do, depending on all the circumstances.

- a. When they are **starting a new job** people often need to have an **Induction course**. Sometimes employers might need to tailor a course as a reasonable adjustment.

For example:

Allowing a newcomer with a learning disability to take a longer time or have the support of a helper.

- b. There may also need to be some flexibility in any **terms and conditions** that could put a disabled person at a substantial disadvantage.

For example:

After treatment for mental health problems, Kevin was able to find work again as a local government officer. However, his disability was aggravated by the stress of travelling in the rush hour on the bus, and this had an adverse effect on his work. Starting and finishing times were not important to the job and agreeing alternative times with his Head of Department removed the stress and Kevin's work improved as a result. Therefore, the adjustment solved the problem.

- c. **If someone already working for a firm becomes disabled, or a disabled employee's condition deteriorates**, the employer must make any necessary reasonable adjustments. It is useful to talk to individuals about their needs and seek any necessary specialist advice.

For example:

Jane has developed multiple sclerosis, so her employer has arranged for her to move from her job as a shop assistant to fill a less physically demanding vacancy in the back office and receive the necessary training. They agreed between them that as time goes on, Jane can work part-time in order to reduce fatigue and receive outside medical treatment.

- d. Disabled members of staff are entitled **to any benefits** such as canteens, social clubs and health care offered by the employer. If it is significantly more difficult for a disabled person to take advantage of a particular benefit because of an employer's arrangements or premises, the employer should make any necessary reasonable adjustment, such as reserving a parking space close to the social club entrance for a wheelchair user.
- e. The Act inserts into every **occupational pension scheme** a 'non discrimination' rule.

For example:

Trustees of a pension scheme would not be justified in excluding Sue simply because she had a visual impairment. That fact, in itself, would be no reason why she should not receive the same pension benefits as any other employee.

However the duty to make a 'reasonable adjustment' does not apply to occupational pension schemes or certain other benefits under some types of benefit schemes.

Flexible
working hours



Large
computer
monitors



5.5 Reasonable adjustments - career development

Employers must not discriminate against disabled employees in relation to, for example, **promotion, transfer or training**. Necessary, reasonable adjustments must be made to facilitate the career development of disabled people. For example, making a training venue more accessible for someone finding it difficult to move around.

The need to make reasonable adjustments also applies to providing **opportunities for promotion**. For example, giving someone with a visual or hearing impairment the opportunity to take a management course run by an appropriate voluntary organisation.

5.6 Reasonable adjustments - ending employment

Ending the employment of a disabled person for a reason related to their disability would need to be justified. This would include showing that the reason for dismissal could not be removed by any reasonable adjustment, for example, where a disability makes it impossible for an employee to continue to do the main part of the job.

For example:

Paula's eyesight, essential to her job as a graphic designer, has been steadily deteriorating. Although modifications to her workstation enabled her to continue for a while, she has become totally blind. As Paula can no longer perform the main function of her job and there are no alternative vacancies to which she can be transferred, her employer would be justified in offering her early retirement on medical grounds.

Employers must not discriminate against disabled employees after the person's employment has come to an end. This includes the provision of references and access to any company sports or social facilities offered to other ex-employees.

5.7 Practical help

For **practical help in employing disabled people** and for help for disabled people in getting or keeping a job, contact the Disablement Employment Advisor (DEA) at your local Jobcentre



6. Buying or renting land or property

It is against the law to treat a disabled person less favourably when they are **buying or renting land or property** such as a house, a flat or a place to run a business. This covers most people involved in **selling, letting or managing land or property**, including local councils, housing associations, private landlords, and estate agents.

Some landlords, such as those who let out rooms in their own homes to six or fewer people (not counting relatives) are not included. The DDA does not apply to owner-occupiers who do not use estate agents or advertise their home 'for sale'.

6.1 Discrimination when buying or renting land or property

Discrimination takes place when:

- a. A disabled person is **refused the opportunity to buy or rent** because of their disability.

For example:

Bruce has seen a 'to let' sign outside a ground floor flat without any steps, which looks right for his wheelchair. When he arrives at the letting agent's office, the woman behind the counter takes one look and tells him the flat would not be suitable. The reasons she uses for taking this decision are related to Bruce's disability. This is unlawful.

- b. **Worse terms** are offered.

For example:

Sally has schizophrenia. When talking to other tenants in the block of flats she has recently moved into, Sally is surprised to find the landlord has asked her to pay three times the deposit he has charged others to cover breakages. This will be unlawful if the landlord has asked for the extra deposit because, for no good reason, he considers that because of her disability, Sally is more likely to break things.

- c. **Waiting lists are manipulated** to a disabled person's disadvantage.

For example:

The Hughes family, with a disabled daughter, were wondering why they have been waiting so long to be given a place to live by a letting agency. By chance they discover that the agency has an unwritten practice of keeping all disabled people at the bottom of its waiting list. This is unlawful.

- d. Disabled people are **prevented or restricted from using benefits and facilities** such as shared areas for recreation.

For example:

Because of his severe facial disfigurement Ron has been asked not to use the small communal gym in a block of flats at busy times. This is unlawful.

- e. A disabled person is **evicted** or placed at a disadvantage.

For example:

The Smiths' eldest daughter can occasionally be noisy because of a disability. The landlord hands them an eviction notice, because he claims the other tenants in the block are being disturbed. The family has never had any objections from the other people and none of them has made a complaint. This is unlawful.

- f. **Consent is refused** to sub-let to a disabled person.

For example:

Roy wants to sub-let a room in his rented house. He decides Mary is the most suitable tenant because she has a steady job. He knows she had a history of mental ill health. On hearing of this, Roy's landlord tells him to find someone else, as he thinks, because of Mary's disability, this would be asking for trouble. This is unlawful.

6.2 Is it ever ok to treat a disabled person less favourably?

There are a few circumstances when it is not possible to treat disabled people as favourably as others. They include:

- where less favourable treatment is necessary in order to avoid endangering the **health and safety** of any other person;
- where the disabled person is **incapable of entering into a legally enforceable agreement** or of giving informed consent;
- refusing a disabled person access to a benefit or facility such as a shared kitchen, **if otherwise it would mean others could not use it**;
- **offering a different way** into a facility, if this is necessary for them or others to gain access.

6.3 Can disabled people expect alterations to be made to property to make it more accessible?

No. People do not have to make alterations to allow access for those renting or buying their property.

6.4 Is there anything to stop disabled people being given more favourable treatment?

No. For instance, a local authority or housing association is entitled to put disabled people ahead of others on their housing list.



7. Education

7.1 What areas of education are covered?

A new law relating to disability discrimination in education came into effect on the **1st September 2005**. This law is called the **Special Education Needs and Disability (Northern Ireland) Order 2005**, also known as **SENDO**. SENDO applies to schools, education and library boards, colleges and universities, including teacher training and agricultural colleges.

7.2 What is disability discrimination under SENDO?

SENDO places three key duties on schools, colleges and universities not to discriminate against disabled pupils or students in the provision of education and associated services, admissions and expulsions. There is a duty **not to treat** disabled pupils or students and prospective pupils or students **less favourably** for a reason relating to their disability.

For Example:

A secondary school is arranging work experience placements for its pupils. Two years ago, Peter experienced a period of depression. The school decided that the placement would be too stressful for him and did not arrange a placement for him because of his disability. This is likely to be discrimination.

Education and associated services includes a wide variety of the activities concerning schools, colleges and universities, including:

Teaching and learning
Exams and assessments
The curriculum
Suspension/expulsion
Work experience/placements
Sports facilities

Lunch and break times
School/field trips
Timetabling
Classroom organisation
Counselling services
Admissions criteria

There is also the duty for educational institutions to make **reasonable adjustments** to all policies, procedures and practices to ensure that a disabled pupil or student is not placed at a substantial disadvantage compared to pupils or students who are not disabled.

For example:

Claire is attending a Business Studies course at a local college of further and higher education. She is partially deaf and lip reads. One of her lecturers talks while simultaneously writing on the whiteboard. Claire asks them to stop speaking when he turns his back to use the whiteboard so that she can follow what she is saying. This is likely to be a reasonable adjustment.

Similar to the duty for service providers, this duty is both **anticipatory** and **reactive**. This means educational institutions should make changes, where reasonable, to how education is delivered, both in response to the needs of individual pupils and students and pro-actively for disabled pupils and students generally. For colleges and universities, the reasonable adjustment duty applies to the provision of **auxiliary aids** and **services** and to the physical environment. Disabled students can be eligible for funding from the Education and Library Board, Local Education Authority or other funder to cover the cost of reasonable adjustments.

For example:

Simon has cerebral palsy and has received funding from the Disabled Students Allowance to buy an adapted keyboard to use with his computer. However, his own computer is too difficult to transport everyday from home to University. It would be likely to be reasonable for his university to provide him with a similar adaptation for a computer within the university's computer suites.

For schools, the provision of auxiliary aids and services for disabled pupils and prospective pupils is facilitated through the **Special Educational Needs framework**. SENDO does not provide new or additional means of obtaining the necessary aids and services required to make education accessible.

7.3 How does SENDO affect the Special Educational Needs Framework?

SENDO has changed aspects of the Special Educational Needs process and information relating to this aspect of SENDO can found in the Department of Education's '**Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs**'.

Finally, both Schools and Colleges/Universities have a duty not to **victimise** any students or pupils who make a complaint of disability discrimination under SENDO or any pupils or students who are supporting a fellow student/pupil in making a disability complaint.



8. Any complaints?

8.1 What should a disabled person do if discriminated against?

First, the disabled person may try and resolve the dispute with the organisation concerned. In doing this, they may wish to seek help from any of the organisations listed in section 10 or the **Equality Commission for Northern Ireland**, contact details are on the back cover of this booklet.

The Equality Commission can give information and advice about what rights a disabled person has under both the DDA and SENDO and it is important that if you feel you have been discriminated against on the grounds of your disability you should contact the ECNI as soon as possible as there are strict **time limits** for making a complaint to an Tribunal or County Court.

8.2 Employment –



If the complaint is about employment or recruitment, and it cannot be resolved informally between the disabled person and the employer, then the disabled person may take their complaint to an **Industrial Tribunal**. The Labour Relations Agency (LRA) can make the services of a conciliation officer available at the request of either party. They will try to settle the dispute without the need for a complaint to go to an Industrial Tribunal.

A disabled person wishing to make a complaint to an Industrial Tribunal should obtain from the Equality Commission or Tribunal Offices the tribunal packs entitled 'Making a claim to the Industrial Tribunal'. The Equality Commission has produced a pack entitled '**Discrimination Complaint Pack**' which contains information on frequently asked questions about lodging a complaint in a tribunal. Copies can be obtained by contacting the Equality Commission directly.

Strict **time limits** exist in relation to making a complaint to an employment tribunal under the DDA and individuals have **three months less one day** from the date of the act of discrimination to make a complaint.

Individuals are encouraged to use the '**Questions Procedure**' to ask an employer's reasons for the treatment or failure to make reasonable adjustments, regardless of whether or not they wish to make a tribunal complaint. Disabled people should be aware that there are time limits, within which disability discrimination statutory questionnaires should be served on the employer, contact the Equality Commission for details.

Statutory Dispute Resolution

It is advisable for people to lodge their employment claims promptly and before they do so they should consider whether they must use the Statutory Dispute Resolution procedures. These procedures came into force on 3 April 2005 and give new rights and responsibilities to employees and employers in relation to grievances and disciplinary procedures and dismissals.

The Statutory Dispute Resolution procedures (which may or may not apply to the disabled person) may impact on an individual's ability to have his/her case heard before a Tribunal at all and upon time limits for lodging claims and upon levels of compensation.

The Equality Commission for Northern Ireland does not give advice in relation to the Statutory Dispute Resolution procedures therefore you should contact the Labour Relations Agency for advice, see section 10 for details.

8.3 Goods and services / Land or property -



If the complaint is about goods, facilities or services, or land or property, and it cannot be resolved between the disabled person and the service provider, then a disabled person may take their complaint to the **County Court**. This is done by way of a Civil Bill and it is advisable to seek legal advice before taking this type of proceedings as there are costs entailed in issuing Civil Bills. Strict time limits also exist in relation to making a complaint under Part III of the DDA. Complaints in relation to the provision of goods, facilities or services or land or property to a county court must be made within **six months less one day** from the date of the act of discrimination

8.4 Education



If a disabled pupil or parents of a disabled child wish to make a complaint under the Special Educational Needs and Disability Order, generally complaints against schools are made to the **Special Educational and Disability Tribunal (SENDIST)**. Complaints against Further and Higher Education providers, that is colleges and Universities are made to the County Court. In both cases, complaints must be made within **six months less one day**.

8.5 Who is liable?

Individual members of staff have responsibilities not to discriminate. Employers, service providers and educational institutions also need to be aware that they can be held responsible for what an employee does, unless they have taken all practicable steps to prevent discrimination. They can also be held responsible for anyone acting on their behalf, such as an agent or representative, unless that person is acting outside their authority. It is an organisations responsibility to make sure all staff know what actions may be against the law.



9. Forthcoming changes to the DDA

The Disability Discrimination Act has changed considerably since its introduction in 1995 and it will continue to change and evolve with a greater number of disabled people having protection from discrimination in a greater number of situations. This means that increasing duties will be placed upon employers, service providers and others. Over the next few years there will be a number of key changes to the DDA in areas such as:

9.1 Transport



The Disability Discrimination Act is being extended to cover more aspects of transport in the future, in particular regulations to make means of transport accessible to disabled people. The regulations will require all buses to be fully accessible by 2017 and all trains by 2020. A detailed Code of Practice on the Transport and the DDA will be produced by the Equality Commission in the near future.

9.2 Housing



New duties within housing will mean that the reasonable adjustment duty will be extended to the letting and managing of premises. This means that those involved in letting and managing premises will have to make reasonable adjustments to any policies, practices or procedures for disabled tenants or prospective tenants.

9.3 Private clubs



New provisions will prohibit discrimination by private clubs against their members, associate members, guests and prospective members or associates. The duties will only apply to clubs with greater than 25 members.

For details on when these changes come into force in Northern Ireland and other changes that are being made to the Disability Discrimination Act, please contact the Equality Commission, contact details for which can be found on the back page of this booklet.



10. Additional Information

10.1 Other publications

A number Codes of Practice exist to support and further expand the DDA and SENDO. For a more detailed explanation of the disability discrimination law, these publications should be consulted. The Codes of Practice can be obtained free of charge from the Equality Commission:

Disability Code of Practice: Employment and Occupations

Disability Code of Practice: Trade Organisations and Qualifications Bodies

Disability Code of Practice: Rights of Access: Goods, facilities, Services and Premises

Disability Discrimination Code of Practice: Further and Higher Education

Disability Discrimination Code of Practice: Schools

A number of other publications about disability are available **free** from the Equality Commission for Northern Ireland (ECNI) looking in more details at topics such as employment, access to goods, facilities and services, education and the provision of sign language interpreters. The address and contact details for the ECNI 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

10.2 Other Useful Contacts:

- **Northern Ireland Citizen's Advice Bureaux**
Contact for local advice centre details:
Tel: 028 90 231120
Fax: 028 90 236522
E-mail: enquiries@niacab.org
Web-site: www.niacab.org

- **Association of Independent Advice Centres**
Contact for local advice centre details:
Tel: 028 90 645919
Fax: 028 90 492313
E-mail: info@aiac.net
Web-site: www.aiac.net

- **The Law Centre**
Tel: 028 90 244401
Fax: 028 90 236340
E-mail: admin.belfast@lawcentreni.org
Address: 124 Donegall Street, Belfast, BT1 2GY
Web-site: www.lawcentreni.org

- **Disability Action**
Tel: 028 90 297880
Fax: 028 90 297881
E-mail: hq@disabilityaction.org
Address: Portside Business Park, 189 Airport West, Belfast, BT3 9ED
Web-site: www.disabilityaction.org

- **Labour Relations Agency**
Tel: 028 90 321442
Fax: 028 90 330827
E-mail: info@lra.org.uk
Address: 2-8 Gordon Street, Belfast, BT1 2LG
Web-site: www.lra.org.uk

- **Trade Union Representatives**
If you are a member of a Trade organisation they may be able to support you with a complaint.

Equality Commission

FOR NORTHERN IRELAND

How can we help?

The Equality Commission for Northern Ireland can give advice and information on the Disability Discrimination Act 1995 through training, telephone and textphone 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 90 500 600



Textphone: 028 90 500 589



Fax: 028 90 248 687



Email: information@equalityni.org



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