

## **THE DISABILITY DISCRIMINATION ACT PART III**

The Disability Discrimination Act Part III covers the provision of goods, facilities and services to disabled children, young people and adults across the whole of the UK. It is legally binding and has an accompanying Code of Practice which sets out the specific requirements and offers guidance on good practice.

### **Who is disabled under the DDA?**

The DDA has a very broad definition of disability in comparison with other legislation. It states that a person has a disability if: *“he or she has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities”*.

### **What are the key duties of Part III of the DDA?**

**Since December 1996**, it has been unlawful for service providers to refuse a service to a disabled person, offer a lower standard of service or provide a service on worse terms for a reason related to their disability.

**Since October 1999**, service providers have had to take reasonable steps (i.e. make reasonable adjustments) in the way in which they provide services to disabled people.

**From October 2004**, service providers may have to make reasonable adjustments in relation to the physical features of their premises in order to overcome physical barriers to access.

### **Who are Service Providers?**

As a general guide, anyone providing services to the public (whether in the private, public or voluntary sectors) is covered by Part III of the DDA. It does not matter if the services are provided free or in return for payment. Non-educational services which are provided by schools, colleges or universities to the public, are likely to be covered by Part III. Other educational duties are covered by Part IV of the DDA.

### **What are reasonable adjustments in children’s services?**

Reasonable adjustments are positive steps which service providers take to make sure their services are accessible to disabled children and young people.

The DDA states that all service providers must take reasonable steps to:

- **Change practice, policy and procedures** which make it impossible or unreasonably difficult for disabled people to use a service.
- **Provide auxiliary aids or services** to make it easier or possible for disabled people to use a service. An ‘auxiliary aid’ could be a loop induction system for a hearing aid user, portable ramps, or the production of information in Braille.
- **Overcome physical features** which make it impossible or unreasonably difficult for disabled people to access a service through a *reasonable alternative method*.



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The DDA duties in Part III are *anticipatory*. Even if there are no current disabled service users, the provider must consider how disabled people might use the service in the future.

The core duty is to make '*reasonable adjustments*' to the way services are provided so that they are safe and accessible and avoid '*less favourable treatment*' of a disabled person.

**Service providers are not expected to:**

- Incur unreasonable expense
- Ignore health and safety considerations
- Alter the core purpose of the service

**Examples of positive developments****Changing policies and practices**

A Connexions service based in a town centre wants to expand the service and offer sessions at other locations. As part of the planning process, they seek advice from local groups and organisations which represent disabled young people. They ask the local Access Officer about how best to ensure that the expanded service will be fully accessible and what needs to be considered in order to achieve this.

**Changing practice and providing auxiliary aids**

A Social Services area office decides to install an induction loop and send staff members on a deaf awareness/sign language course as part of a package of training. This will enable social services staff to communicate more directly with deaf children and their families and ensure that provision is appropriate for their needs.

**Changing practices and providing a reasonable alternative**

A play and leisure service in a rural area runs a holiday play scheme three times a year. It is based on the first floor of an old Victorian building with no lift. The organisers talk to the landlord about moving the service to a more accessible part of the building in the short term, with longer-term plans to change the building's physical features. It is agreed that an adult education class on the ground floor will exchange accommodation with the play scheme. Plans are made to use the Centre's refurbishment budget to begin a series of phased improvements to make the building fully accessible over time.

Each '*reasonable adjustment*' a service makes, will need to be reviewed periodically to ensure it is still the most effective way of offering the best service. For example new technology may offer a simpler and more effective way of providing information in a range of accessible formats in the future.

If a service provided to the public remains '*unreasonably difficult*' for a disabled person to use, this could be seen as unlawful unless there is a justification. The Part III Code of Practice states that

*"service providers should take account of whether the time, inconvenience, effort, discomfort or loss of dignity entailed in using the service would be considered unreasonable by other people if they had to endure similar difficulties"* [section 4.33]

## **Can there ever be ‘justification’ for the different treatment of disabled children and young people?**

Where a decision is taken that a disabled person cannot use a service, the provider should be able to demonstrate that it has sought appropriate advice and considered all options to look for ways to overcome the difficulty. The service may find it helpful to have a *risk management policy* which sets out the criteria for including children in relevant activities (for example in contact sports, activity holidays or holiday play schemes) *and* specifies arrangements for any personal care, administration of medication or access to special equipment.

In certain cases it may be appropriate for the well-being of the disabled child and other children to refuse or modify a service option. The DDA does not over-ride existing duties under other legislation (e.g. the Children Act 1989, the Protection of Children Act 2000) or Health and Safety legislation.

Providers should remember that education and associated services (e.g. school journeys or afterschool clubs) are covered by DDA Part IV and the SEN Framework may provide equipment, or personal support.

Children’s services need to give careful consideration as to how they include disabled children and on what criteria children may be excluded from certain activities. They may wish to carry out access audits in order to plan for greater accessibility and inclusion and to take advice from local disability services.

### **What happens now?**

From October 2004, service providers must consider ‘*reasonable adjustments*’ to the *physical* features of their premises in order to remove *physical* barriers to access. They will be required to consider:

#### **Whether they can remove the feature**

For example removing a built-in cupboard which narrows a corridor or an ornamental wall which limits wheelchair access to the main entrance.

#### **Whether they can alter the feature so that it no longer creates a barrier**

For example installing a hand or grab rail and using non-slip floor covering on narrow steps, re-locating or re-fitting toilet facilities, altering the lighting so that an uneven floor is no longer hazardous and using colour to provide visual cues in corridors, around doors and steps.

#### **Whether they can provide a reasonable means of avoiding the feature**

For example providing access by another entrance, offering access to other toilet facilities, relocating an activity in another room or on another floor. As with other duties under the DDA, the key test will be what is reasonable in a particular situation. A small provider, for example a drop-in playgroup in a rural church hall with very limited resources and choice of accommodation, will not be expected to respond in the same way as a larger provider like a local authority leisure complex, library or day care service. However, all providers must have regard to their duties under the DDA.



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Many adjustments are low-cost and capable of immediate implementation. Many disabled children (and adults) can overcome physical barriers with appropriate personal support. Disability Equality training can enable staff to feel confident in supporting children with learning disabilities, autistic spectrum disorders or behaviour difficulties. Whatever adjustments are made, it is important that they are made positively.

### **What practical work could organisations already be doing?**

Staff are expected to respond to a range of different needs from disabled service users. They should be confident in carrying out their duties and supporting people to access services or in signposting them on to other organisations where needed.

Making links with other organisations and services means it may be possible to share resources like buildings, training materials, interpreters etc. and in advertising available services to users of each service.

Service users, their families and carers have a crucial role to play in guiding how access and service delivery can be improved. Take into account their views and needs by including them in access audits, planning and consultation.

Tell people what services are available and what special arrangements can be put in place if needed.

When an existing service has been improved, make sure that it is well publicised.

Allow more time for visits and meetings to facilitate participation by children and young people who find verbal communication difficult, to help support the understanding of all involved.

Review the information and publicity on services – is it easy to understand and to translate? Provide clear information on services in a range of formats like large print, cassette tape and plain English

Be clear about what services are offered and what users can expect. Services may not meet the needs of everyone but can offer support with good sign posting and information on alternative services.

### **How can we check if changes are working?**

Ask disabled children and young people and their families what they need in order to access services more effectively.

### **Where can I get more information?**

#### **The Disability Rights Commission**

If you would like further advice or information on implementation of the DDA, contact the DRC Helpline 08457 622 633 (voice and text)

or visit their website at [www.drc-gb.org](http://www.drc-gb.org)

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