

Understanding the Disability Discrimination Act 1995 and its affect on service providers

In addition to imposing obligations on employers, the Act places duties on service providers and requires "reasonable adjustments" to be made when providing access to goods, facilities, services and premises.

The duties on service providers have been introduced in three stages:

- Since 2 December 1996 - It has been unlawful for service providers to treat disabled people less favourably for a reason related to their disability;
- Since 1 October 1999 - Service providers have had to make 'reasonable adjustments' for disabled people, such as providing extra help or making changes to the way they provide their services.
- **Since 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**

What are 'reasonable adjustments'

The core concepts in the DDA 1995 are:

- less favourable treatment for a reason related to a disabled person's disability; and
- failure to make a "reasonable adjustment".

"Reasonable adjustment" or, as it is known in some other jurisdictions, 'reasonable accommodation', is the radical concept that makes the DDA 1995 so different from the older legislation. Instead of the rather passive approach of indirect discrimination (where someone can take action if they have been disadvantaged by a policy, practice or criterion that a body with duties under the law has adopted), reasonable adjustment is an active approach that requires employers, service providers etc to take steps to remove barriers from disabled people's participation. For example:

- employers are likely to find it reasonable to provide accessible IT equipment;
- many shops are likely to find it reasonable to make their premises accessible to wheelchair users;
- councils are likely to find it reasonable to provide information in alternative formats (such as large print) as well as normal written form.

The Disability Rights Commission's Codes of Practice give more information to bodies with duties on assessing whether a particular adjustment is reasonable. In general, the factors to consider would include:

- whether the proposed adjustment would meet the needs of the disabled person;
- whether the adjustment is affordable;
- whether the adjustment would have a serious effect on other people.

Sometimes there may be no reasonable adjustment, and the outcome is that a disabled person is treated less favourably. For example, if a person was not able to understand the implications of entering into a mortgage or loan agreement, and they did not have anyone authorised to act for them, it would not make sense to require a bank or building society to enter into that agreement. The Act therefore permits employers and service providers to justify less favourable treatment (and in some instances failure to make a reasonable adjustment) in certain circumstances.