

Drinks, Hospitality & Leisure

Disability Discrimination – A Guide for the Hospitality Sector

A best practice guide

Our hospitality team specialises in advising pub companies, late night operators, restaurants, hotels and brewers. A specialist team means specialist advice from lawyers who understand the issues that you face.



Disability Discrimination Guide

The Disability Discrimination Act which was introduced in 1995 imposed a legal obligation on businesses to make their premises and services more accessible to disabled people. The Act has now been replaced by similar but expanded provisions in the Equality Act 2010 which requires **equality of access to services for disabled people**.

Requirements of the Equality Act

Who has a disability?

Under the Equality Act it is unlawful to discriminate against anyone because of a "protected characteristic". The Act lists 7 protected characteristics of which disability is one. A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The Act also gives protection to those who had a disability in the past, those who are mistakenly perceived to have a disability and those associated with a disabled person e.g. the mother of a disabled child.

Far more people than you think will be covered by the definition of disability and it is certainly not just those in wheelchairs or with orange badges in their cars. Government research shows that one in five people of working age are disabled. People whose mobility, sight, hearing, dexterity, co-ordination or memory is impaired are all covered. Examples of those who may be covered by the definition include people with cancer, diabetes, multiple sclerosis, heart conditions, people with mental health conditions and facial disfigurements.

Disability Discrimination

The Equality Act prohibits direct and indirect disability discrimination, harassment and victimisation. It also requires reasonable adjustments to be made to premises and services.

Reasonable Adjustments

As a service provider you must make changes, where needed to improve your service for disabled customers so that they are not at a substantial disadvantage compared with the non-disabled. This duty requires you to take **positive** steps to ensure that disabled people can access your service and goes beyond the obligation to avoid discrimination.

You are required to think about and take reasonable steps to overcome features that may create a disadvantage for people with particular kinds of impairments e.g. visual, hearing, mobility, learning disabilities and mental health conditions. You are required, so far as **reasonably practicable** to make your service as accessible to the disabled as it is to the non-disabled.

You are required to look at:

1. **The way the service is provided.** Do you need to stop a practice or change it? For example, a restaurant that requires all diners to wear a tie may need to make an exception for a guest with severe psoriasis which makes it too uncomfortable for him to be able to wear a tie.
2. **The physical features of the premises** to ensure that the disabled are not at a substantial disadvantage. Physical features include signage, entrances and exits, car parking areas, internal and external doors, bar counters, tables etc. If a physical feature disadvantages a disabled person you will need to take steps to remove it, alter it, provide a reasonable means of avoiding it or provide the service in a different way. In a recent case Kiruna Stamell who suffers from dwarfism sued the Post Office because she could not reach to put her pin number into a fixed card machine. Post Office staff made makeshift steps out of cardboard to assist, which left Ms Stamell feeling humiliated. The Post Office settled the case but has now introduced devices which can be handed to customers in many of its branches.
3. **The requirement to provide extra aides and services** if this would enable a disabled person to use your service. For example, produce a menu in Braille or offer to read it out to a partially sighted diner, have a portable induction loop available at reception for use by deaf customers.

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What is reasonable?

What is regarded as a “reasonable” adjustment to make will depend on the size of your organisation and resources, the cost of making the adjustments and how the adjustment might benefit other customers. You will need to consider:

- How practicable it is to take the steps
- Costs involved
- How disruptive the work would be
- How much money is available/already spent and whether any financial help is available.

Not all adjustments involve major and expensive building work. There are many adjustments to your premises and services which are not expensive and which can be relatively easily made. For example consider:

- replacing round door knobs, which may be difficult for those with limited mobility to grip
- putting mirrors and coat hooks at lower levels in the disabled toilet
- clearly marking the entrance to the pub or restaurant
- clearly marking out a disabled parking bay closest to the door
- full height glass doors enable wheelchair users to see someone approaching from the other side.

You should consider how you can make your services easier for disabled people to use. These changes need not have major cost implications. For example:

- permit entry to those with guide dogs - environmental health have granted an exemption for guide dogs from the usual rules relating to dogs and food preparation
- staff should be ready to assist disabled customers in accessing the premises and to find a suitable table
- when furniture is replaced consider buying furniture that is easily moved and which allows adequate height and clearance underneath
- staff should offer to read the menu to customers who are visually impaired
- staff may need to converse with the deaf by the exchange of written notes

- menus written on blackboards should be easy to read (a combination of capitals and lower case letters being preferable) and a few paper copies of the menu should also be available for those who have difficulties
- put up signs saying table service is available as an alternative to counter service which can be difficult for the disabled if counters are high or food is displayed in raised cabinets
- Hotels should offer a few rooms which are fully accessible to disabled people. This may mean that the service offered to them is worse as there is a reduced choice of room however, this may be the only way to offer the service and is unlikely therefore to not fall foul of the Equality Act.

What might it cost if you ignore your obligations?

Cost of a discrimination claim

Someone who has been discriminated against on the grounds of their disability can bring a civil action in the County Court and claim damages for injury to feelings. There is **NO** limit on the amount of damages that can be awarded. The court can also grant an injunction to prevent future discrimination. You could also be ordered to change a policy or make a reasonable adjustment. You will also end up paying both your legal costs and those of the victim if you lose your case in Court.

Loss of Revenue

Whilst the majority of buildings are now accessible to the disabled, there are still some that aren't. If you still have access issues then how much longer can you afford to continue to ignore the disabled? Aside from the threat of legal action with all the inherent costs, there is clearly a strong business case for making services easier for the country's 8.5 million disabled people who have an estimated spending power of £2 billion.

Grab Good Publicity

Fiona Jarvis of Blue Badge Style, an organisation for the discerning less able, believes that hotels and pubs are missing a valuable trick in not advertising their accessibility to premises, rooms, bathrooms etc.

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She believes that a clear accessibility statement posted on an operator's website can be a very effective marketing tool.

The British Beer and Pub Association recognises the importance of welcoming disabled people into pubs and how this can be worthwhile from a business perspective too. It has produced two useful documents:

- A guidance document entitled Open Welcome – Why being accessible is good for your pub. [Click here](#) to read the guidance document.
- A guidance note entitled "Why should I create an access statement?" This provides practical guidance on why and how to create an access statement and has a link to an online template. [Click here](#) to view the guidance note

If you are accessible for disabled customers then why not publicise the fact and boost your business as a result.

Avoid Bad Publicity

As well as creating business by being accessible you will be keen to avoid bad publicity from failing to accommodate disabled clientele. In one case an Inverness restaurant was criticised on Facebook and other social media by the niece of a Downs Syndrome man who the restaurant, it was alleged, had refused to serve with a children's portion of fish and chips because of administrative difficulties in processing the order. The criticism led to bad reviews on Trip Advisor.

What to do next?

An access audit is the best way to identify problems which disabled users may have accessing services at a particular outlet. The resulting report including estimates will enable you to draw up an improvement programme. This is strongly advisable before any major refurbishment work is undertaken. Contact the National Register of Access Consultants (NRAC) <http://www.nrac.org.uk/>

Draw up an Access Statement and post it on your website so that disabled people can check this before they visit your premises.

Further Information

The Equality and Human Rights Commission has produced various guides which cover not just equality for the disabled but all equality laws:

- Guidance for service providers - what Equality Law means for your business - specific section covering the particular issues which may arise for hotels, restaurants, cafes and pubs - http://www.equalityhumanrights.com/uploaded_files/EqualityAct/service_providers_business.pdf
- Code of Practice on how the Equality Act 2010 applies to services, public functions and Associations. See: http://www.equalityhumanrights.com/uploaded_files/EqualityAct/servicescode.pdf
- Guidance for hotels, restaurants, cafes and pubs - <http://www.equalityhumanrights.com/advice-and-guidance/service-providers-guidance/what-equality-law-means-for-your-business-when-you-re-providing-goods-facilities-or-services-to-the-public/hotels-restaurants-cafs-and-pubs/>

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