



Transforming Lives

The Hub Alternative Provision Centre

DISABILITY DISCRIMINATION ACT 2005

The Disability Discrimination Act (DDA) 2005 amends the 1995 law of the same name. It introduces a new duty on public authorities to eliminate unlawful discrimination against disabled people and to actively promote their equality and positive attitudes towards them. The Act also brings councillors within the scope of DDA.

Main provisions of the Act

The new Act extends the definition of disability, set out in the [DDA 1995](#) and defines a pro-active approach required from public authorities towards disability equality.

Definition of disability

The definition of people with disability now includes people with HIV, multiple sclerosis and cancer. The definition of disability has been amended to reduce the reliance on the 'medical model' for individuals with a mental illness which no longer has to be 'clinically well-recognised'. The person must still demonstrate a long-term and substantial adverse effect on his/her ability to carry out normal day-to-day activities.

In addition to the earlier provisions, which made it unlawful for public authorities to discriminate against disabled people in the **services** they provide, it is now unlawful for local authorities and schools, to discriminate against a disabled person when exercising their **functions**. This is designed to ensure that functions of public authorities not already covered by the DDA are brought within its scope.

In exercising their functions, under the new general duty to promote equality of opportunity for disabled people, schools and local authorities must have due regard to the need to:

- eliminate unlawful discrimination and harassment against disabled people
- promote equality of opportunity for disabled people
- promote positive attitudes towards disabled people
- encourage disabled people to participate fully in public life.

Public authorities will also have a specific duty to produce annual plans and deliver progress reports on how they are addressing disability discrimination. Schools will be included amongst the public authorities that will have specific duties in relation to the general duty. An annual report is also likely to be required.

Some particular implications for school governors and local authorities

Most school functions are already covered by earlier legislation, but the election of parent governors will now be covered by the DDA and governors will need to ensure, for example, that the procedures for candidates to stand for election and for parents to vote for candidates are accessible to disabled people. However, the result of the election is not covered and disabled candidates will not be able to claim that they were not elected simply because they were disabled. Once a disabled parent governor is elected, the school governing body functions in relation to that parent are covered and the school must ensure that they can participate fully in school life.

The Act puts new duties on transport providers, including the bus and coach companies, and the taxi and private hire car trade. The existing requirement to provide accessible vehicles is extended to include the transport services provided. Bus companies will not therefore be able to refuse a job because, for example, it may take longer to pick up disabled students. Local authority and school staff will need to be aware of the new legal position when hiring transport.

Councillors

Elected members are now covered by the DDA. It is illegal for a locally-elected authority to discriminate against their members in relation to carrying out official duties. Local authorities will had to make reasonable adjustments in relation to disabled members and provide them with support so that they will not be discriminated against by default practices. This would, for example, cover sign language interpretation at official meetings and functions.

Implementation dates

It is expected that the implementation date for the provisions relating to the extension of the definition of disability and for provisions relating to councillors will be December 2005. The expected implementation date for the duty to promote equality of opportunity for disabled people and for the extension of the DDA to cover the functions of public bodies is likely to be December 2006.

The Act and explanatory notes can be found at:

<http://www.opsi.gov.uk/acts/acts2005/20050013.htm>

<http://www.hms0.gov.uk/acts/en2005/2005en13.htm>

If you have any general queries, you should first contact your line manager.

If you require legal advice regarding aspects of the Disability Discrimination Act 2005 that relate to your area of work, please send your query, **in writing**, to the Head of Legal Services, DG5, County Hall, Beverley.