



Disability Discrimination Act 1995

1995 CHAPTER 50

PART III

DISCRIMINATION IN OTHER AREAS

Goods, facilities and services

19 Discrimination in relation to goods, facilities and services

- (1) It is unlawful for a provider of services to discriminate against a disabled person—
 - (a) in refusing to provide, or deliberately not providing, to the disabled person any service which he provides, or is prepared to provide, to members of the public;
 - (b) in failing to comply with any duty imposed on him by section 21 in circumstances in which the effect of that failure is to make it impossible or unreasonably difficult for the disabled person to make use of any such service;
 - (c) in the standard of service which he provides to the disabled person or the manner in which he provides it to him; or
 - (d) in the terms on which he provides a service to the disabled person.
- (2) For the purposes of this section and sections 20 and 21—
 - (a) the provision of services includes the provision of any goods or facilities;
 - (b) a person is “a provider of services” if he is concerned with the provision, in the United Kingdom, of services to the public or to a section of the public; and
 - (c) it is irrelevant whether a service is provided on payment or without payment.
- (3) The following are examples of services to which this section and sections 20 and 21 apply—
 - (a) access to and use of any place which members of the public are permitted to enter;
 - (b) access to and use of means of communication;
 - (c) access to and use of information services;

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- (d) accommodation in a hotel, boarding house or other similar establishment;
 - (e) facilities by way of banking or insurance or for grants, loans, credit or finance;
 - (f) facilities for entertainment, recreation or refreshment;
 - (g) facilities provided by employment agencies or under section 2 of the Employment and Training Act 1973;
 - (h) the services of any profession or trade, or any local or other public authority.
- (4) In the case of an act which constitutes discrimination by virtue of section 55, this section also applies to discrimination against a person who is not disabled.
- (5) Except in such circumstances as may be prescribed, this section and sections 20 and 21 do not apply to—
- (a) education which is funded, or secured, by a relevant body or provided at—
 - (i) an establishment which is funded by such a body or by a Minister of the Crown; or
 - (ii) any other establishment which is a school as defined in section 14(5) of the Further and Higher Education Act 1992 or section 135(1) of the Education (Scotland) Act 1980;
 - (b) any service so far as it consists of the use of any means of transport; or
 - (c) such other services as may be prescribed.
- (6) In subsection (5) “relevant body” means—
- (a) a local education authority in England and Wales;
 - (b) an education authority in Scotland;
 - (c) the Funding Agency for Schools;
 - (d) the Schools Funding Council for Wales;
 - (e) the Further Education Funding Council for England;
 - (f) the Further Education Funding Council for Wales;
 - (g) the Higher Education Funding Council for England;
 - (h) the Scottish Higher Education Funding Council;
 - (i) the Higher Education Funding Council for Wales;
 - (j) the Teacher Training Agency;
 - (k) a voluntary organisation; or
 - (l) a body of a prescribed kind.

20 Meaning of “discrimination”

- (1) For the purposes of section 19, a provider of services discriminates against a disabled person if—
- (a) for a reason which relates to the disabled person’s disability, he treats him less favourably than he treats or would treat others to whom that reason does not or would not apply; and
 - (b) he cannot show that the treatment in question is justified.
- (2) For the purposes of section 19, a provider of services also discriminates against a disabled person if—
- (a) he fails to comply with a section 21 duty imposed on him in relation to the disabled person; and
 - (b) he cannot show that his failure to comply with that duty is justified.

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- (3) For the purposes of this section, treatment is justified only if—
- (a) in the opinion of the provider of services, one or more of the conditions mentioned in subsection (4) are satisfied; and
 - (b) it is reasonable, in all the circumstances of the case, for him to hold that opinion.
- (4) The conditions are that—
- (a) in any case, the treatment is necessary in order not to endanger the health or safety of any person (which may include that of the disabled person);
 - (b) in any case, the disabled person is incapable of entering into an enforceable agreement, or of giving an informed consent, and for that reason the treatment is reasonable in that case;
 - (c) in a case falling within section 19(1)(a), the treatment is necessary because the provider of services would otherwise be unable to provide the service to members of the public;
 - (d) in a case falling within section 19(1)(c) or (d), the treatment is necessary in order for the provider of services to be able to provide the service to the disabled person or to other members of the public;
 - (e) in a case falling within section 19(1)(d), the difference in the terms on which the service is provided to the disabled person and those on which it is provided to other members of the public reflects the greater cost to the provider of services in providing the service to the disabled person.
- (5) Any increase in the cost of providing a service to a disabled person which results from compliance by a provider of services with a section 21 duty shall be disregarded for the purposes of subsection (4)(e).
- (6) Regulations may make provision, for purposes of this section, as to circumstances in which—
- (a) it is reasonable for a provider of services to hold the opinion mentioned in subsection (3)(a);
 - (b) it is not reasonable for a provider of services to hold that opinion.
- (7) Regulations may make provision for subsection (4)(b) not to apply in prescribed circumstances where—
- (a) a person is acting for a disabled person under a power of attorney;
 - (b) functions conferred by or under Part VII of the Mental Health Act 1983 are exercisable in relation to a disabled person's property or affairs; or
 - (c) powers are exercisable in Scotland in relation to a disabled person's property or affairs in consequence of the appointment of a curator bonis, tutor or judicial factor.
- (8) Regulations may make provision, for purposes of this section, as to circumstances (other than those mentioned in subsection (4)) in which treatment is to be taken to be justified.
- (9) In subsections (3), (4) and (8) “treatment” includes failure to comply with a section 21 duty.

21 Duty of providers of services to make adjustments

- (1) Where a provider of services has a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of a service which he provides, or is prepared to provide, to other members of the public, it is his duty to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to change that practice, policy or procedure so that it no longer has that effect.
- (2) Where a physical feature (for example, one arising from the design or construction of a building or the approach or access to premises) makes it impossible or unreasonably difficult for disabled persons to make use of such a service, it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to—
 - (a) remove the feature;
 - (b) alter it so that it no longer has that effect;
 - (c) provide a reasonable means of avoiding the feature; or
 - (d) provide a reasonable alternative method of making the service in question available to disabled persons.
- (3) Regulations may prescribe—
 - (a) matters which are to be taken into account in determining whether any provision of a kind mentioned in subsection (2)(c) or (d) is reasonable; and
 - (b) categories of providers of services to whom subsection (2) does not apply.
- (4) Where an auxiliary aid or service (for example, the provision of information on audio tape or of a sign language interpreter) would—
 - (a) enable disabled persons to make use of a service which a provider of services provides, or is prepared to provide, to members of the public, or
 - (b) facilitate the use by disabled persons of such a service,it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to provide that auxiliary aid or service.
- (5) Regulations may make provision, for the purposes of this section—
 - (a) as to circumstances in which it is reasonable for a provider of services to have to take steps of a prescribed description;
 - (b) as to circumstances in which it is not reasonable for a provider of services to have to take steps of a prescribed description;
 - (c) as to what is to be included within the meaning of “practice, policy or procedure”;
 - (d) as to what is not to be included within the meaning of that expression;
 - (e) as to things which are to be treated as physical features;
 - (f) as to things which are not to be treated as such features;
 - (g) as to things which are to be treated as auxiliary aids or services;
 - (h) as to things which are not to be treated as auxiliary aids or services.
- (6) Nothing in this section requires a provider of services to take any steps which would fundamentally alter the nature of the service in question or the nature of his trade, profession or business.

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- (7) Nothing in this section requires a provider of services to take any steps which would cause him to incur expenditure exceeding the prescribed maximum.
- (8) Regulations under subsection (7) may provide for the prescribed maximum to be calculated by reference to—
 - (a) aggregate amounts of expenditure incurred in relation to different cases;
 - (b) prescribed periods;
 - (c) services of a prescribed description;
 - (d) premises of a prescribed description; or
 - (e) such other criteria as may be prescribed.
- (9) Regulations may provide, for the purposes of subsection (7), for expenditure incurred by one provider of services to be treated as incurred by another.
- (10) This section imposes duties only for the purpose of determining whether a provider of services has discriminated against a disabled person; and accordingly a breach of any such duty is not actionable as such.