

## Disability Discrimination Act 1995

### Definition of disability

Please note that this factsheet gives general guidance only and should not be treated as a complete and authoritative statement of the law.

The thinking behind the Disability Discrimination Act (DDA) is that it should protect people who would generally be regarded as disabled. This is why the DDA defines disability as a “**physical or mental impairment, which has a substantial and long-term adverse effect on a person's ability to carry out normal day to day activities**”.

**Physical impairment:** this includes, for instance, a weakening of part of the body (eyes, ears, limbs, internal organs etc.) caused through illness, by accident or from birth. Examples would be blindness, deafness, paralysis of a leg or heart disease.

**Mental impairment:** this includes mental ill health and what is commonly known as learning disability.

**Substantial:** put simply, this means the effect of the physical or mental impairment on ability to carry out normal day to day activities is more than minor or trivial. It does not have to be a severe effect.

**Long-term adverse effect:** the effect has to have lasted, or be likely to last, overall for at least 12 months and the effect must be a detrimental one. A person with a life expectancy of less than 12 months is, of course, covered if the effect is likely to last for the whole of that time.

**A normal day to day activity:** this is something which is carried out by most people on a fairly regular and frequent basis, such as washing, eating, catching a bus or turning on a television. It does not mean something so individual as playing a musical instrument to a professional standard or doing everything involved in a particular job.

**What sort of effect must there be?** The person must be affected in at least one of the respects listed in the DDA: mobility; manual dexterity; physical co-ordination; continence; ability to lift, carry or otherwise move everyday objects; speech, hearing or eyesight; memory or ability to concentrate, learn or understand; or perception of risk of physical danger.

**What happens if the effects are reduced by medication or other treatment?** Broadly speaking, the effects that matter are those that would be present if there was no medication or treatment taking place. The exception is people who wear spectacles or contact lenses when what matters is the effects that remain while the spectacles or contact lenses are being used.

## Are there any types of condition covered by special provisions in the DDA?

Yes, because some people with particular conditions might otherwise not be counted as disabled. These are provisions covering:

- recurring or fluctuating conditions such as arthritis, where the effects can sometimes be less than substantial, which are treated as continuing to have a substantial adverse effect so long as that effect is likely to recur;
- conditions which progressively deteriorate, such as motor neuron disease, which count as having a substantial adverse effect from the first time they have any effect at all on ability to carry out normal day to day activities even if it is not substantial, so long as there is eventually likely to be a substantial adverse effect; and
- severe disfigurements, which are treated as having substantial adverse effects on ability to carry out normal day to day activities, even if they have no actual effect at all.
- People with cancer, HIV, or multiple sclerosis are deemed to be disabled people from the point of diagnosis, regardless of whether or not they have any symptoms.

## Are any conditions not covered?

Yes, the following conditions specifically do not count as impairments:

- addiction to or dependency on alcohol, nicotine or any other substance (unless resulting from the substance being medically prescribed);
- seasonal allergic rhinitis (e.g. hay fever) unless it aggravates the effect of another condition;
- tendency to set fires, or steal, or physically or sexually abuse other persons;
- exhibitionism and voyeurism;
- severe disfigurements consisting of tattoos, non-medical body piercing or attachments to such piercing are not treated as having substantial adverse effects.

## What if someone has recovered from a disability?

Much of the DDA also applies to people who have had a disability in the past (for example, someone who was disabled by mental ill health) but have now fully recovered. People who were registered disabled under the Disabled Persons (Employment) Act (Northern Ireland) 1945 both on 12 January 1995 and 2 December 1996 will be regarded as having had a disability in the past, if they do not in any case fall within the definition of the DDA.

## Further Help?

Other factsheets in this series on employing disabled people are available from:

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