

DISABILITY DISCRIMINATION ACT 1995 PART III

Under the Disability Discrimination Act 1995 Part III (DDA) churches are required to consider the needs of disabled people and to make whatever adjustments are necessary to their chapels, halls and other similar properties to accommodate them.

The heart of the issue is that churches are required to consider the difficulties that disabled people attending their premises would face, and to make the necessary alterations where it is reasonable for them to do so. Sometimes, imagination is called for. So, for example, if refreshments are normally served upstairs one solution to the problem is to install a lift for disabled people to use. However, a “reasonable” solution is to serve refreshments downstairs as well.

Whilst “reasonable” is not defined in the act, we can take it that the word means what it says. So, if a church has a couple of steps leading to the entrance, and there is space for a ramp to be constructed, it is reasonable to expect the church to do so. On the other hand, it may be contended that it is not reasonable for a church with 20 steps and no space to construct a ramp to be expected to do so.

The important thing is that the church has identified the problems, has considered what is reasonable, and has implemented the results of their findings. Where the church has not taken action on the grounds of the proposed alterations being “unreasonable”, the church is advised to keep a written record of the reasons. If the grounds are based on prohibitive costs it would be advisable to have a quotation on the file as evidence of the fact.

We have produced some guidance notes which are on the following pages. We have tried to avoid technical jargon wherever possible but, as always, there is sometimes no other way to refer to something other than by its technical reference. In addition, we have taken out a licence to reproduce a very extensive checklist that has been produced by the Centre for Accessible Environments and this is available from the office at a cost of £5. Churches are not permitted to photocopy the checklist but they may obtain further copies from this office.

We realise that some churches may need further assistance as they seek to ensure compliance with the DDA and we would direct you to the Centre for Accessible Environments (www.cae.org.uk). However, if the question concerns matters specifically related to your own site you may need professional advice. In that case we should be able to steer you in the direction of local professional advisors. Whilst this may be expensive for the church in the short term, it might be more expensive in the long term if the church were to do nothing. One can imagine the scenario of a local troublemaker taking action against a church out of spite. It is therefore important that churches do follow the procedures set out in the guidance notes.

DISABILITY DISCRIMINATION ACT 1995 PART III (DDA)

General Background

This Act places duties on those providing goods, facilities or services to the public. The Act makes it unlawful for service providers and other persons to discriminate against disabled people in certain circumstances.

Enforcement of the DDA is by civil action in the courts. The Disability Rights Commission (DRC) has produced a Code of Practice (May 2002) (Rights of Access, Goods, Facilities, Services and Premises). Any civil action would be likely to be judged against this Code.

Disability includes not only wheelchair use, but difficulty in walking, blindness, partial sightedness, significantly impaired speech, learning difficulties, deafness, severe disfigurement, epilepsy or long term diabetes. The Act affects both adults and children. The effect of any disability must be substantial, adverse or long term (for at least a year).

Discrimination occurs in two possible ways:-

- Treating the disabled person less favourably.
- Failure to include 'reasonable adjustments' in relation to the disabled person and inability to justify the failure.

Who is a Service Provider?

Anyone who provides a service to the public or a section of the public. It is irrelevant whether or not one pays for the service. A church is a service provider and thus covered under the DDA.

How are Churches Affected by DDA?

From 1st October 1999 churches have had to take reasonable steps to:-

- Change a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to use their facilities.
- Provide a reasonable alternative method of making its facilities available to disabled people where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of their facilities.
- Provide an auxiliary aid or service if it would enable (or make it easier for) disabled people to make use of their facilities.

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Where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of their facilities, a church must take reasonable steps to:-

- Remove the feature; or
- Alter it so that it no longer has that effect; or
- Provide a reasonable means of avoiding it; or
- Provide a reasonable alternative method of making the facilities available.

Some examples of physical features for churches to consider are:-

- Level access
- Level egress/emergency exits
- Toilets
- Counters
- Car parking
- Kerbs (dropped)
- Paving (tactile surfaces)
- Stairs/steps
- Doors (internal and external)
- Location of light switches
- Braille signage
- Gates
- Lighting
- Ventilation

Whilst there may be certain exemptions for Education, church youth clubs come under DDA. The DDA requires churches to make 'reasonable adjustments'. There is no precise answer as to what is reasonable but the Code of Practice advises that reasonable may vary according to the:-

- Type of services provided
- Nature of the service provider and its size and resources
- Effect of the disability on the individual disabled person

Some factors when considering what is reasonable are:-

- Whether taking particular steps would be effective in overcoming the difficulty that disabled people face in getting access
- The extent to which it is practicable for the service provider to take the steps
- Financial and other costs of making the adjustment
- The amount of disruption caused by taking the steps
- Money already spent on making adjustments
- The availability of financial or other assistance

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Statutory Consents

Having a current Planning Permission or Building Regulations Approval is no guarantee of compliance with the DDA. A building in England or Wales that complies with Part M (Part T. Scotland) of the Building Regulations should afford reasonable access for disabled people. However some disabled people may find it unreasonably difficult or impossible to use a building even though it complies with Part M. In this instance, provided a physical feature accords with the 1992 or 1999 Approved Documents to Part M an exemption provided by the DDA means that a service provider will not have to make adjustments to that feature if 10 years or less has passed since the construction or installation. Any building works undertaken prior to 1st October 1994 will not be protected by the exemption.

As a point of interest, the Code of Practice indicates that the 10 year exemption period commences from the date the installation or construction was finished. Under a Standard Form of Contract this point would be known as Practical Completion.

The DDA does not override the need to obtain statutory consent i.e., Planning Permission, Listed Building Consent, Monument Consent, English Heritage, Building Regulations, Fire Authority Approval and Party Wall Notice.

Specialist advise needs to be sought if for example a lease or some other building obligation indicates that certain changes to premises cannot be made.

General Disclaimer

Whilst the Grace Baptist Trust Corporation believes that the above guidance notes represent an accurate reflection of the requirements of the Act, the Corporation accepts no liability for any consequences that may arise due to a third party relying on them.