

Access to goods, facilities and services

It is unlawful for companies to treat disabled people less favourably for a reason related to their disability, by:

1. refusing to serve a deafblind person for a reason that relates to their disability
2. offering a worse service to a deafblind people
3. providing a service on different terms.

Service providers also have to provide extra help or make changes to the way they provide their services, so disabled people can use the services easily.

These duties are 'anticipatory' which means service providers should not wait until a disabled person complains about poor access before considering making changes.

What changes or adjustments will service providers have to consider?

1. Changes to practices, policies and procedures
2. Provision of auxiliary aids and services
3. Making the service accessible by another means
4. Making buildings more accessible

What is the definition of 'reasonable'?

What is a 'reasonable' step will vary according to:

- the type of services being provided
- the nature of the service provider and its size and resources
- the effect of the disability on the individual disabled person.

How might this impact on deafblind people?

It will depend on the attitude of the service provider. The precise duties to deafblind people are not clear, so full access is effectively conditional and discretionary.

Grounds for justifying less favourable treatment

Service providers must consider making 'reasonable adjustments'. If these changes are not made, the provider can be penalised, unless they can prove one of the following reasons for not making the adjustments.

1. Health and safety - a threat endangering disabled persons or others and this cannot be overcome by any reasonable adjustment.
2. Inability to give informed consent or to enter into an enforceable agreement - this will only apply when someone is clearly unable to understand a complicated transaction; it will not apply if the person is being assisted by an advocate. This is likely to affect deafblind people who also have learning disabilities.
3. If, by serving the disabled person the service provider is unable to serve others. A busy shop or bank which makes a deafblind person who uses deafblind manual alphabet wait may not be able to use this justification. However, if it is a small shop and there is only one person serving customers, they might use this justification successfully.
4. If making the service accessible to a disabled person would fundamentally alter the nature of the service or business. A nightclub with low level lighting would not be required to adjust the lighting to accommodate dual sensory impaired people if this would fundamentally alter the atmosphere of the club.

What happens if there is a dispute under the Act?

Often people complain to the service provider first and see if the issue can be resolved. Civil proceedings can also be brought within six months of the alleged discrimination. An advice and conciliation service is available.

If successful, a deafblind person could be awarded compensation for any financial loss, including injury to feelings. A disabled person may also seek an injunction to prevent the service provider repeating any discriminatory act in the future.