

Disability Discrimination Act 1995

Notes on summary by the Churches Main Committee (CMC), July 1999
[for other resources, see penultimate section of this article]

1. What's the DDA's ethos and aim?

- Increasing access is central to the churches' mission of bringing people closer to God.
- The DDA makes it unlawful for churches ("as a service provider offering services to the public"), to discriminate without justification against disabled people. [See next section for definitions].
- Its duties will benefit the breadth of community in which churches are situated, including older people and young families, for whom poor access is often a disincentive to attend worship or participate in other activities based in the buildings.
- Investment now in improving physical accessibility may be the most cost-effective way for churches to meet obligations due by October 2004. Such forewarning allows churches to incorporate necessary changes into, say, current or ongoing refurbishment projects.

2. Who's who; What's what; How far does the Act go?

- "services to the public" covers acts of worship and any other activities in which the public might participate.
- "churches" means a place of public worship, for which the PCC is usually responsible.
- A disabled person has a physical or mental impairment which has an effect which is substantial [more than minor or trivial], adverse and long-term [lasting for at least a year, or likely to last for the rest of life], on his or her ability to carry out normal day-to-day activities. Physical or mental impairment includes a sensory impairment. Hidden impairments are also covered.
- Discrimination under the DDA occurs when a provider ...

(a) treats the disabled person less favourably for a reason relating to their disability than others to whom that reason does not apply; and is unable to justify treatment;
(b) fails to make "reasonable adjustments" in relation to the disabled person; and cannot justify such failure.

- DDA duties apply equally to Halls, churchyards and parts of parsonage houses used for parish meetings, etc.

3. What are the deadlines?

- Duties under the DDA are phased ...

- (i) **from 2-Dec-96**, it has been unlawful for providers to treat disabled people less favourably for a reason related to their disability;
- (ii) **from 1-Oct-99**, providers have to make "reasonable adjustments" for disabled people, such as providing extra help or making changes to the way they provide their services; and
- (iii) **from 1-Oct-04**, providers will also have to make "reasonable adjustments" to physical features of their premises to overcome physical barriers to access.

4. *What typically contravenes already?*

- Unjustified refusal (or non-provision of) a service to only a disabled person is likely to be unlawful. Hence a school party of disabled children visiting a church but denied access by the minister, without explanation, when usually open to other visitors, will contravene.
- Unjustified offering of a lower standard of service, or in worse manner, than to others would be unlawful. Hence telling someone with severe disfigurement to sit in a rear pew, out of sight of other churchgoers, despite space near them, is likely to contravene.
- Unjustified provision of service on worse terms than those offered to others would be unlawful. Thus, charging more for goods or imposing extra conditions for using a service (except in certain circumstances, "where the service is individually tailored to the requirements of the disabled customer") would contravene. Hence a PCC Sec. requiring a larger deposit for a group pilgrimage from a parishioner with Usher syndrome (who is consequently deafblind), for fear of increased risk of trip cancellation, is likely to be shown to be illegal.

[It's worth noting that a diocesan chancellor, one of c.12 judges/lawyers who consider applications to alter most Church of England churches, had not by late Nov-02 heard of a case being brought under the parts of the DDA effective by that date, i.e. per 3(i) or 3(ii)].

5. *What "reasonable adjustments" should be made by/in a church?*

- The DDA doesn't define "reasonable steps" to be taken. Such will depend on type of facilities, the nature of the service-provider, its size and resources, and the effect of the disability on the individual disabled person. Factors to weigh in defining such steps for a church will include ...
 - (a) effectiveness in improving access;
 - (b) practicability for the provider;
 - (c) cost (of all sorts);
 - (d) extent of consequent disruption
 - (e) extent of the provider's resources (of all sorts);
 - (f) amount of any resources already spent making adjustments;
 - (g) availability of financial/other assistance.
- Further, churches contravene the DDA if they discriminate against someone who finds it "unreasonably difficult" (also undefined) to use church facilities if those responsible for them have not taken such steps. ("Unreasonably difficult" should be gauged by the time, inconvenience, effort or discomfort foreseen by others if they had to endure similar difficulties).

Hence, a church would need to review its policy of aisle-queuing prior to Communion received standing at the altar steps if a disabled person experiences great pain in standing for the typical time taken: taking Communion would be deemed unreasonably difficult for them.

- Emphasising, then, churches may have to ...

(1) change a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to make use of what they're offering;

(2) provide a reasonable alternative method of making what's available accessible to disabled people where a physical feature makes it impossible or unreasonably difficult for disabled people to use them;

(3) provide an auxiliary aid or facility if it would enable/ease disabled people in using the services provided.

6. Do we need to change a practice, policy, or procedure causing "unreasonable difficulty"?

- Churches may need to waive the practice, amend a policy (to allow exceptions) or abandon it. Such change often involves little more than extending existing courtesies.

Hence a written, or informally agreed, or unspoken-but-traditional practice of "no dogs on premises" should be waived to permit access of guide dogs, to avoid a blind person being denied participation except with unreasonable difficulty.

7. Should we instigate "reasonable alternative methods" of providing service?

- All circumstances of a case should be considered in deciding how far it's necessary to go to be seen as reasonable (see (a)-(g) above). The DISABILITY DISCRIMINATION (SERVICES AND PREMISES) REGULATIONS 1999 provides that the following are treated as "physical features" (temporary or permanent) ...

- "any feature arising from design/construction of a building (an erection or structure of any kind) on the premises occupied by the service-provider, or any approach or access thereto, or exit therefrom";

- "any fixtures, fittings, furnishings, furniture, equipment or materials in or on such premises, or taken to other buildings there as part of service provision";

- "any other physical element or quality of land comprised in the premises".

Hence, a church bookshop in an old building with a narrow entrance at the top of a flight of stairs might be deemed to have taken adequately reasonable steps if it offers to bring goods to disabled customers at the building's off-street entrance.

8. Must we provide a "reasonable auxiliary aid or service" to facilitate participation by disabled people?

- Once more, consider all circumstances (again, (a)-(g) above). What's reasonable for a large suite of bustling city-centre church buildings with lease income will not be so for a small rural mission church. The DDA differentiates between aids and services ...
- a Cathedral may reject the expensive option of a radio microphone system for guided tours (in order to not discriminate against persons with hearing difficulties), in favour of a good quality cassette-based guide with the option of plug-in neck loops: this is an auxiliary aid (and is likely to be deemed a reasonable provision);
- a large cluster of churches might fund a lay employee able to provide live translation into British Sign Language at certain acts of worship: this is an auxiliary service.
- For people with hearing disabilities, the range of auxiliary aids and services which it might be reasonable to provide (though not all reasonable in typical churches) includes ...
 - written information (such as a leaflet or guide);
 - a facility for taking and exchanging written notes; a verbatim speech-to-text transcription service;
 - non-permanent induction loop systems;
 - subtitles;
 - videos with sign language interpretation;
 - information displayed on a computer screen;
 - accessible internet Websites;
 - textphones, telephone amplifiers and inductive couplers;
 - teletext displays;
 - audio-visual telephones;
 - audio-visual fire alarms (not involving physical alterations to premises);
 - qualified sign language interpreters or lipspeakers.

Hence, fitting an induction loop system in a church Hall ensures people who use hearing aids can communicate effectively with others when there is background noise. But it doesn't help profoundly deaf people. Reasonable steps to take might be the PCC requesting that refreshments volunteers take time to communicate as necessary using pen and notepad, and to speak looking directly at people needing to lip-read.

- For people with visual impairments, the range of auxiliary aids or services which it might be reasonable to provide (though not all reasonable in typical churches) includes ...
 - readers;
 - documents in large or clear print, Moon or Braille;
 - information on computer diskette or audiotape;
 - telephone facilities to supplement other information;
 - spoken announcements or verbal communication;
 - accessible Website;
 - assistance with guiding;
 - audiodescription facilities;
 - large print or tactile maps/plans and three-dimensional models;
 - touch facilities.

Hence, in reviewing overall accessibility of its newsletter, a small parish church of limited resources decides it's impracticable to produce in Braille: it does decide, though, to change print size and presentation, making it more accessible to partially sighted people. But this

doesn't assist those who are blind. Likely reasonable steps to have to take would be for the church to arrange for the information to be available on audio tape and publicised as available on request.

9. How do we go about gauging what should be put in place?

- Ultimately, how effectively a provider meets reasonably the individual requirements of disabled people will depend largely on its successful anticipation of its disabled customers' requirements. Include people with disabilities in considering what reasonable adjustments to make.
- Common broad groupings of people for whom to cater are those with learning difficulties or mental illness, problems of sight, hearing, and mobility. So, while relative frequency of "category" of disability isn't mentioned in the CCC's summary of the Act, these four could well highlight most needs for action.
- Prepare for improving access (and accessibility) now! "Minimum compliance" is a false economy: a "maximise-the-impact" approach is a sound investment and good practice.
- Churches are more likely to be able to meet their duty to make reasonable adjustments under the DDA if they ...
 - audit physical and non-physical barriers to access;
 - adjust policies (intentions) and procedures (step-by-step means to ends);
 - train those who serve at worship and run parish activities to better practice those adjustments;
 - make such adjustments known to disabled people, including how to request assistance;
 - review regularly their effectiveness, and readjust as necessary.

10. VAT and Funding

- Much work to provide aids for disabled people (e.g. induction loops, toilets, chairlifts) is zero-rated for VAT. See the CCC booklet "VAT and the Churches" (§15) and the Customs & Excise VAT leaflet 701/7/94. The Churches Main Committee in its response to the consultative document on the Review of Charity Taxation is urging that such work be zero-rated.
- There is no specific central funding source for churches on providing aids for disabled people, but local authority Access Officers may be able to point to grants.

11. Useful reading & contacts

- The CCC suggest "Through the Roof" for up-to-date guidance on all aspects of access, (a pack entitled "Churches for All" is available). Contact them at PO Box 353, EPSOM, Surrey KT18 5WS; tel. 01372-749955 (minicom 01327-737041; info@throughtheroof.org).
- Disability Discrimination Act 1995: Taking Account of its Implications for the Fabric of Churches and Cathedrals: Advisory Note by the Council for the Care of Churches (CCC) and

the Cathedrals Fabric Commission - draft issued April 2001; final version expected early 2003. Contact Church House Publishing or tel: 0207-898 1866.

- An easy-to-read, large print A4 booklet of 37pp ("Open to All: a Commitment to a church accessible to everyone") has been produced by ACCESS in the Diocese of Lichfield; it costs £5 from CARIS, Shallowford House, Shallowford, Stone, Staffs. ST15 0NZ.
- "Valuing Difference: People with Disabilities in the Life and Mission of the Church." (£2.99, published for the Catholic Bishops' Conference by the Dept for Catholic Education and Formation, 39 Eccleston Square, London SW1V 1BX; tel. 0207-630 8221);
- "Accessible to All", by Redemptorist Publications, is a book, "purposely designed for priests and lay people who, because they are often overwhelmed by a whole series of demands on their time and energy, might otherwise have failed to take notice of the new legislation". It promises a simple and clear overview of assessing how well a local church serves parishioners with disabilities, and includes a comprehensive list of professionals and specialists who can help. (£3, via 01420-88222 or sales@ShineOnline.net);
- "Widening the Eye of the Needle: Access to Church Buildings for People with Disabilities" (second edition, 2002, £10.95, published for the CCC by Church House Publishing, Gt Smith Street, London SW1P 3NZ; tel: 0207-898 1000), particularly concerned with structural changes. [This and "Valuing Difference..." offer "access audit check lists", a copy of which is available to those PCCs served by one of the diocesan approved architects on request from him].
- Open for All - Diocese of Carlisle, Board for Social Responsibility, 2002.
- Everyone - Together! A Parish resource pack on disability - Diocese of Liverpool, Board for Social Responsibility.
- Designing for Accessibility: an Introductory Guide - Tessa Palfryman, Centre for Accessible Environments (CAE), 2000.
- Buildings for All to Use: Good Practice Guidance for Improving Existing Public Buildings for People with Disabilities - Sylvester Bone, Construction Industry Research and Information Association (CIRIA), 1996.
- Easy Access to Historic Properties - English Heritage, 1995.
- Access to the Historic Environment: Meeting the Needs of Disabled People - Lisa Foster, Donhead Publishing, 1997.
- Churches Action on Disability (50 Scrutton St, London EC2A 4XQ; tel. 0207-452 2085) is concerned with all aspects of the churches' work for disabled people.
- The RNID's helpline - Telephone 0808 808 0123 - Textphone 0808 808 9000 - gives advice on suitable equipment, training, provision of interpreters, etc., regarding hearing disabilities.
- Summary of the Act, by Charles Mynors (chancellor of the diocese of Worcester), basis of a lecture at the Ecclesiastical Law Society, 27-Nov-02 (available upon e-mail request to the Birmingham DAC secretary).

12. Further Information

- Disability Rights Commission, 7th Floor, 222 Gray's Inn Road, London, WC1X 8HL, Tel: 020-7898 6111; their website contains useful further links.
- Centre for Accessible Environments (CAE), Nutmeg House, 60 Gainsford Street, London, SE1 2NY, tel: 020-7357 8182. Has a database of local architects and surveyors.
- Construction Industry Research and Information Association (CIRIA)
- Disability Discrimination: Law and Practice - Brian J Doyle, third edition, Jordan, 2000 (fourth edition expected March 2003)
- Disability Discrimination: The Law and Practice - Declan O'Dempsey and Andrew Short, first edition, FT Law & Tax (Sweet & Maxwell), 1996

13. Conclusion

- Best solutions are often simple, cost little or nothing, and highly practicable.
- Physical changes will almost always require "ecclesiastical planning permission" (a "faculty") and the Churches Main Cttee. (CMC), via the CCC, will summarise issues relating to removal of "physical barriers" (and provision of ramps, appropriate toilets) nearer 2004, when legal requirements will be better understood.
- Listening carefully and responding to what disabled people really want helps churches find the best way of meeting special requirements and expectations: in such ways are met both duties under the DDA and their shared mission to help all people, disabled and non-disabled, "access" God.