

The Disability Discrimination Act 2005 (DDA) makes it unlawful to treat a disabled person less favorably than others for a disability-related reason in relation to the disposal or management of residential, commercial and other premises, unless that treatment can be justified under the Act. However, there is currently no duty to make reasonable adjustments. This contrasts with protection afforded in the provision of goods, facilities and services, and in employment, where disabled people may have a right to have reasonable adjustments made for them.

The Disability Discrimination Act 2005 received Royal Assent on the 7th April 2005 and builds on and amends earlier disability discrimination legislation, principally the Disability Discrimination Act 1995.

The DDA 2005:

- Removes the requirement in the Act that a mental illness must be 'clinically well recognised' before it can count as an impairment for the purposes of the DDA. The Government has decided that this stipulation is no longer required. People with a mental illness will still need to show that their impairment has a long term and substantial adverse effect on their ability to carry out normal day-to-day activities. By removing the 'clinically well-recognised' requirement, the Government has also brought DDA coverage for people with mental illnesses into line with coverage for all other mental and physical impairments.
- People with HIV, cancer and multiple sclerosis (MS) will be deemed to be covered by the DDA effectively from the point of diagnosis, rather than from the point when the condition has some adverse effect on their ability to carry out normal day-to-day activities. Extending the coverage of the DDA in this way will mean that the protection of the DDA will be afforded to another 250,000 disabled consumers.

Obligations for Service Providers

Part III of the DDA requires service providers to make reasonable adjustments to allow people with disabilities, access to their services. A "service provider" for the purposes of the legislation is anyone who provides a service to anyone outside their organisation. The legislation applies where members of the public visit offices regularly or to any type of drop-in service, for example a workshop where customers can inspect their purchases or a warehouse where they can inspect goods being made.

As the Act became law some time ago (1 October 2004), it may be prudent to take remedial action without delay.

Obligations for Employers

Part II of the DDA requires employers with 15 or more employees to consider making changes to the physical features of premises that they occupy. This legislation has been in force since December 1996. Employers do not necessarily have to make any physical changes to their property if they don't have anyone with a disability working for them, but should be fully aware of their staff's needs to ensure they are not discriminating, including against less obvious disabilities such as arthritis, hearing or sight impairments.

Landlords and Managers of Let Premises

Landlords and managers of let premises and premises that are to let will be required to make reasonable adjustments for disabled people, provided certain conditions are met (for example, that a request has been made). Failure to comply with this provision will be deemed unlawful unless it can be justified under the Act.

Landlords and managers might be required to:

- Alter their policies, practices or procedures;
- Provide auxiliary aids or services;
- Change the terms of a letting for example to allow animals (Guide dogs) or modifications for use of Type-talk, visual communication devices etc.

Landlords are not required to remove or alter physical features of the premises. For example, features arising from the design or construction of the premises are to be treated as a physical feature. But things like furniture and furnishings are not to be treated as a physical feature. In addition certain things such as the replacement of taps and door handles are not to be treated as an alteration of a physical feature.

The duty of less favorable treatment and reasonable adjustment will also apply to commonhold properties.

Under DDA the duties of reasonable adjustment will not apply to:

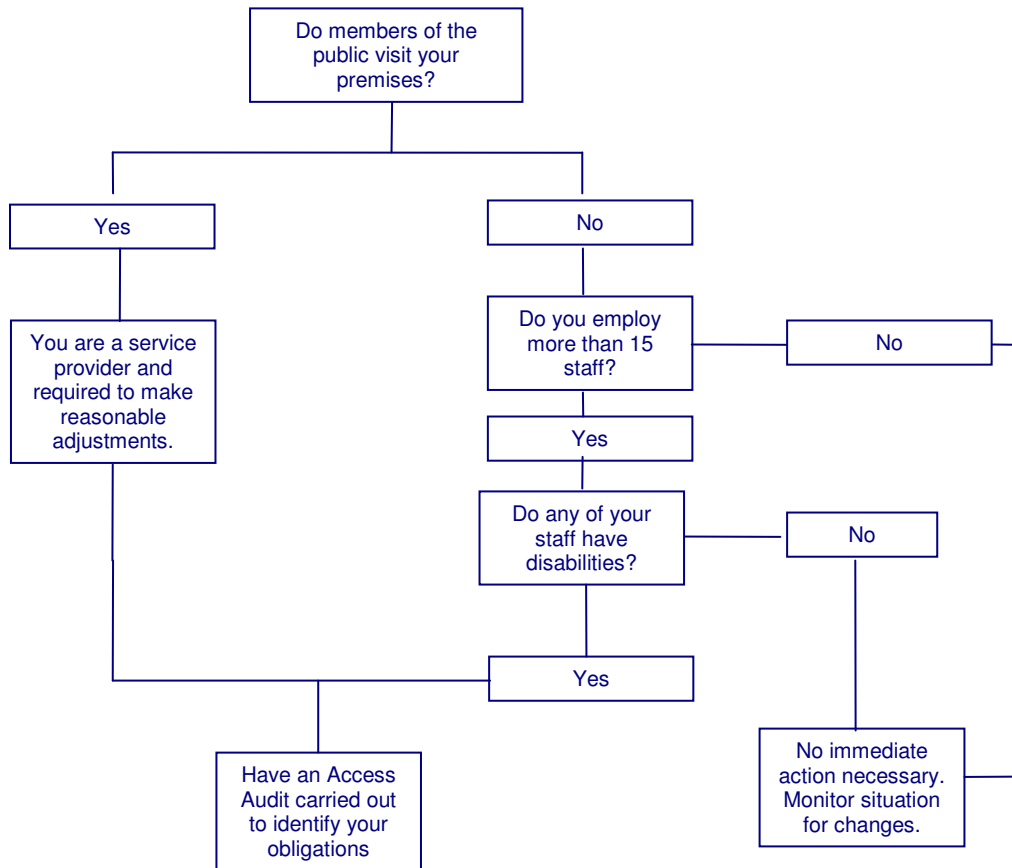
- Prospective lettings where landlords let their only or principal home and do not use the services of an estate agent to arrange the letting;
- A letting where the landlord lets their only or principal home and does not use a professional management agent to manage the letting;
- Certain small dwellings, for example, where a landlord or manager lives on the premises and there is not normally residential accommodation on the premises for more than six persons.

How can Stiles Harold Williams assist?

We can advise on the steps service providers and employers should reasonably be expected to take. The basis for any DDA advice is an Access Audit, which will highlight any deficiencies in disability provision for both staff and the public, what needs to be carried out and what needs to be monitored. This will highlight management issues as well as any physical alterations required. Access Audit recommendations, following guidance as set out in IS58300:2001 and 'Designing for Accessibility' published by the Centre for Accessible Environments, should form the basis for implementing a works programme to ensure that suitable access is provided. Budgeted costs for implementation works will also be provided.

We can undertake the audit and include recommendations to implement works in a single instruction, to provide a more cost effective service.

The Disability Discrimination Act flowchart



For further information contact:

Russell Markham BSc (Hons) MRICS

Brighton office: t. 01273 231222 e. rmarkham@shw.co.uk

Nick Woodcock BSc MRICS

Crawley office: t. 01293 441328 e. nwoodcock@shw.co.uk

Richard Turner BSc MRICS

Croydon office: t. 020 8662 2702 e. rturner@shw.co.uk

Haydon Murton BSc (Hons) MRICS MBeng

London office: t. 020 7389 1509 e. hmurton@shw.co.uk