

Disability Law Service

advice and legal representation for disabled people

Financial Services and the Equality Act

Financial Services and the EA

The Equality Act applies to any financial business that provides services to members of the public. Financial providers therefore should ensure that they do not discriminate against people on the grounds of a protected characteristic which could be done by:

- Refusing to provide a person with a service which is provided to other members of the public.
- By no longer providing someone with an existing service which is provided to other members of the public e.g. by no longer offering credit with respect to a loan because the person is disabled but continuing to do so for other customers.
- By providing a person with a service of worse quality than it would normally provide e.g. by making someone wait longer for financial advice because the person is disabled.
- By providing a service in a way that is worse compared to those for whom it would normally provide the service e.g.

treating someone in a hostile way when they apply for a loan.

- By providing a service on less favourable terms than it would normally provide the service e.g. by charging someone more or imposing extra conditions on them (although there are some exceptions to this, please see below).

Financial providers must also make sure they do not indirectly discriminate through the use of their policies and procedures e.g. by insisting someone attends the bank in order to obtain a loan but the bank itself is not accessible to wheelchair users. Another example would be a small credit company who only provides loans to people who work full time. Because disabled people statistically are more likely to have part time jobs, this could constitute indirect discrimination.

However, financial providers can provide a service on more favourable terms to those who have a protected characteristic e.g. a credit union targeting local female loan parents who struggle to get a traditional bank loan if they can justify the need is unique to women.

There may be occasions when a financial provider refuses to enter into a contract with a disabled person which can be justified. This would be if the provider is concerned that the disabled customer is unable to understand a particular transaction. Such an example would be a person with senile dementia who applies for a store credit card. Although he can make the repayments, the finance company has good reasons for believing that he does not understand the nature of the legal agreement and obligations involved and his application is refused. Such discrimination may be justified.

How to enforce your rights under the Act

If you are concerned that you have been discriminated against by a service provider you should first write a letter to the provider setting out your concerns. In the letter you should identify the type of discrimination that you believe has occurred and what action you would like the service provider to take. This may include asking the service provider to adjust its policy or provide a ramp so that you can access the shop. You should also ask the service provider to respond within a specified time, usually 14 days.

You could also consider sending a disability questionnaire to the service provider requesting information on their policies towards disabled people. Such a questionnaire will assist you in determining the strengths and weakness of your case. Examples of the questions you may wish to pose in the questionnaire can be found on the Equality and Human Rights Commissions website: www.equalityhumanrights.com. The questionnaire should be sent within six months of the act of discrimination and should be done before you think about issuing a claim in the Courts. The service provider then has eight weeks in which to complete and return the questionnaire. In the event the service provider refuses, the Court can draw inferences from the provider's refusal to complete the questionnaire.

In the event you are unable to resolve matters with the service provider, you may wish to consider issuing a claim for disability discrimination in the County Court. Such claims must be issued within six months less one day of the act of discrimination. If you win in the County Court, the Court can order the service provider to pay you compensation or can issue an injunction forcing the service provider to take steps to avoid discrimination in future.

If you are considering bringing a claim in the County Court, you should seek legal advice first. This is because you are at risk of costs in the County Court. This means if you lose your case, the Court can ask you to pay the service providers legal costs for defending the claim.

As an alternative to county court proceedings you can also seek redress through the Equalities Mediation Service (EMS). Cases are referred from the Equality and Human Rights Commission to EMS. EMS will contact both parties to arrange a meeting in order to try and seek an agreement between parties. The agreements can be wide ranging and include remedies which cannot be ordered by the Court, such as asking the organisation to apologise. Other remedies include compensation and a requirement for organisations to change its policies and procedures to prevent discrimination from occurring again in future. If an agreement is reached through EMS it will be in 'full and final settlement'. This means you then cannot pursue the same matter through the County Court. If you are unable to reach an agreement through mediation then you may still be able to pursue the matter through the County Court. If you have tried mediation through EMS and it has failed, your deadline to submit a claim to the County Court is extended by a further three months. However, this must be agreed with the Equality and Human Rights Commission. In

order to seek assistance through EMS, please see details at the end of this factsheet.

How can I get help?

If your income is low, and you do not have much money saved, you may be able to get free advice and assistance from a specialist discrimination law solicitor under what is known as the 'Legal Help Scheme'.

This scheme covers the cost of some of the legal work involved in making a discrimination claim. However, it does not cover all costs. In particular, it does not cover the cost of having a lawyer attending court. If you need someone to go to court with you then you can apply for Legal Aid.

To find a specialist disability discrimination solicitor in your area who can provide help under the free Legal Help Scheme, you can contact the **Legal Services Commission** on **0845 608 1122** or search its database on the internet at: **www.clsdirect.org.uk**.

Some solicitors may also be prepared to represent you on a 'no win, no fee' basis. For more information about solicitors you should contact the **Law Society** on **020 7242 1222**.

Law Centres and Citizens Advice Bureaux may also be able to help you free of charge. Details about the Law Centre nearest to you are available from the **Law Centres Federation**. Details of your local CAB can be obtained via the **National Association of Citizens' Advice Bureaux**. Contact details for these organisations can be found at the back of this guide.

Useful organisations

The Disability Law Service

Disability Law Service is a registered charity offering free confidential legal advice on disability discrimination to disabled people. It is able to take on certain cases on behalf of disabled people.

In addition to disability discrimination advice, it can also offer advice in the following other categories of law: community care, employment and welfare benefits.

39–45 Cavell Street

Whitechapel

London E1 2BP

Telephone: **020 7791 9800**

Fax: **020 7791 9802**

Textphone: **020 7791 9801**

Email: **advice@dls.org.uk**

Equality and Human Rights Commission

The Equality and Human Rights Commission is a national organisation set up by the Government to monitor and tackle discrimination. It operates a telephone helpline for people with discrimination problems. The Equality and Human Rights Commission also publishes many useful guides and leaflets, which can be obtained via its helpline. In some cases, the Equality and Human Rights Commission will advise and represent people who have discrimination claims.

Equality and Human Rights Commission England

Equality and Human Rights Commission Helpline

Freepost RRLL-GHUX-CTRX

Arndale House

Arndale Centre

Manchester M4 3EQ

Telephone: **0845 604 6610**

Minicom: **0845 604 6620**

Fax: **0845 604 6630**

Website: **www.equalityhumanrights.com**

Opening times: Monday, Tuesday, Thursday, Friday 9am–5pm;

Wednesday 9am–8pm (last call taken at 7:45pm)

Equalities Mediation Service

Mediation Works

16 Queen Street
Wellington
Shropshire
TF1 1EH

Telephone: **01952 224285**

Fax: **01952 224289**

Email: **ems@mediation-works.co.uk**

Website: **www.equalities-mediation.org.uk/**

This can offer an alternative means of resolving disputes without requiring recourse to the courts. A referral to this service must be made through the Equalities and Human Rights Commission, please see contact details above.

Legal Services Commission

The LSC can give contact details of solicitors and other organisations that can advise and assist you, subject to eligibility, under the free Legal Help Scheme.

29–37 Red Lion Street

London

WC1R 4PP

Telephone: **0845 608 1122**

Website: **www.clsdirect.org.uk**

RADAR

Offers legal advice on the DDA.

12 City Forum

250 City Road

London EC1V 8AF

Telephone: **020 7250 3222**

Textphone: **020 7250 0123**

RNIB

Offers legal advice to people with visual impairments.

224 Great Portland Street

London W6 9DG

Telephone: **020 7388 1266**

The Law Centres Federation

Provides details of local Law Centres which can give legal advice and assistance with disability discrimination claims.

Duchess House

18–19 Warren Street

London W1P 5DB

Telephone: **020 7387 8570**

National Association of Citizen's Advice Bureaux (also known as 'Citizens Advice')

Provides details of local CABs which can give legal advice and assistance with employment claims.

Myddleton House
115–123 Pentonville Road
London N1 9LZ
Telephone: **020 7833 2181**
Fax: **020 7833 4371**
Website: **www.nacab.org.uk**

The Law Society

Provide details of solicitors who can advise on discrimination and employment cases.

Ipsley Court
Berrington Close
Redditch
Worcestershire B98 0TD
Telephone: **020 7242 1222**
Website: **www.lawsociety.co.uk**

Legal Disclaimer

Although great care has been taken in the compilation and preparation of this work to ensure accuracy, DLS cannot accept responsibility for any errors or omissions. All information provided is for education / informative purposes and is not a substitute for professional advice. Any organisations, telephone numbers and links to external web-sites have been carefully selected but are provided without any endorsement of the content of those sites.

For further advice on these matters please contact:

Disability Law Service

Telephone: **020 7791 9800**

Minicom: **020 7791 9801**

Fax: **020 7791 9802**

Email: **advice@dls.org.uk**

Website: **www.dls.org.uk**

Or write to us at: 39 – 45 Cavell Street, London E1 2BP

Community
Legal Service



Registered Charity Number 280805
Company Registration Number 1408520