**The Disability Discrimination Act 1995 – your rights in employment**

The Disability Discrimination Act 1995 (DDA) is a law in Northern Ireland which means that it is illegal for people to discriminate against you because of your sight loss.

It is the law in Northern Ireland only; in the rest of the UK the Equality Act 2010 replaced the DDA. If you live in England, Wales or Scotland and would like more information on the Equality Act, you can download our factsheets at [**rnib.org.uk/equalityact**](http://www.rnib.org.uk/equalityact) or call our Helpline on **0303 123 9999**.

In this factsheet we give a brief overview of what the DDA is and explain how the DDA can protect your rights in employment, which types of employment are covered under the Act and what to do if you feel you have been discriminated against.

**What is the Disability Discrimination Act 1995?**

The Disability Discrimination Act 1995 (DDA) is a law to make sure people are not discriminated against because of a disability they have.

The DDA protects the rights of people with disabilities in different areas, including:

* employment
* education
* access to goods, facilities and services, such as banks, supermarkets and renting property.

These protected rights mean that if you are treated less favourably as a result of your disability than someone in the same situation who does not have a disability, then you can challenge this treatment under the DDA.

If you have been certified as severely sight impaired (blind) or sight impaired (partially sighted) by a consultant ophthalmologist, then you are automatically protected under the DDA.

If you have not had your sight loss certified, but believe you have been discriminated against because you have sight loss, you may still be protected under the DDA. Long-term means: lasting, or likely to last, at least 12 months.  Normal day to day activities include:

**Who and what in employment is affected by the Act?**

* Employers of any size
* Permanent employees
* Part-time employees
* Contract workers
* Applicants for jobs
* People on work experience
* Public office holders

**Who and what in employment is not affected by the Act?**

* Volunteers
* The Armed Forces

**Protecting your rights in employment**

There are lots of ways the DDA can help you in employment situations, from looking for a job to making sure you are not dismissed because your sight gets worse.

**Recruitment**

An employer must not discriminate at any point during their recruitment process. This includes how applications are dealt with, who is invited for interviews and how an employer makes their decision for offering someone a job.

 Employers should make sure tests and any other interview tasks are accessible, and that all staff involved in selection and interviews are trained in equality and diversity. This is to make sure that they deal with all applications in a fair way and promote equality of opportunity.

It can also be discrimination if an employer advertises a position in such a way as to exclude or discourage disabled people from applying and does not refer to a consideration of any reasonable adjustments.

**Terms of employment, benefits, and dismissal**

An employer must not discriminate:

* in the terms of your employment, for example your salary
* how they offer, or do not offer, access to opportunities for promotion, transfer or training or receiving any other benefit
* by dismissing or subjecting you to any other “detriment” (unfair treatment).

**Harassment at work**

It is also unlawful for an employer to subject a disabled person who is employed, or a disabled person who has applied for employment, to harassment. Harassment is where, for a reason relating to someone’s disability, a person engages in unwanted conduct which has the purpose or effect of:

* violating the disabled person's dignity, or
* creating an intimidating, hostile, degrading, humiliating or offensive environment.

An employer is responsible (“liable”) for any harassment at work committed by any of its employees against another. An employer has a defence to this if it can show that it took all reasonable steps to prevent the discrimination from taking place, for example by providing all staff with training on its equal opportunities and dignity at work policies.

**Reasonable adjustments in employment**

The DDA says that employers have a duty to make reasonable adjustments to support their employees with disabilities to carry out their jobs.

There are three parts to the duty which state when reasonable adjustments should be made. These are called the “requirements”.

1. The first requirement states reasonable adjustments should be made to any “provision, criterion or practice” (PCP). This includes policies, procedures or ways of working, for example sick leave policies.
2. The second requirement states reasonable adjustments should be made to any “physical features”. Many things can be considered physical features, such as the entrances and exits to a building as well as steps and lighting.
3. The third requirement states reasonable adjustments should be made to provide “auxiliary aids or services” to someone who needs them. An auxiliary aid or service can cover many things, such as extra equipment (e.g. a CCTV), software or a support worker.

**Health and safety**

Health and safety is often given as a reason for dismissing someone with sight loss, or treating them less favourably.

If employers try to use issues of health and safety as a defence for disability related discrimination, they will need to prove that there is a genuine risk. An employer can do this using risk assessments, or preferably by getting specialist reports from appropriate professionals. If your employer tries to dismiss you, or subjects you to any detriment, on the grounds of health and safety they must first show that it could not have made any reasonable adjustments – including transferring you to another role – which would overcome their health and safety concerns.

**Do I have to tell an employer about my sight loss?**

There is nothing which states that you have to tell an employer about your sight loss. However, you must remember that if you do not tell your employer, and they cannot be reasonably expected to know, then there is no obligation for them to make any reasonable adjustments for you. Although you might be worried about telling your employer, doing so can be helpful because you can then let them know about any help you need in carrying out your role before any issues arise.

**What if my sight deteriorates while I am working?**

If you are concerned that changes in your vision will affect your work, or have already started experiencing difficulties, you should contact a Disability Employment Adviser at your local Jobcentre. They may be able to arrange for an assessment of your work to find out what help you need or arrange for rehabilitation. You can also speak to one of our employment specialists for advice by calling our Helpline.

**I think someone has discriminated against me. What can I do?**

If you believe you have experienced discrimination relating to your employment, there are a number of different ways you can challenge it.

**Raising a grievance**

If you believe that your employer has discriminated against you, your first step should be to raise a formal grievance with your employer using their grievance procedure. A grievance is essentially a type of complaint that you, as an employee, are making against your employer. You have to be employed to raise a grievance; if you are an applicant for a job and have suffered discrimination then you will need to make a complaint.

Dealing with a grievance can be very complicated, and you should make sure you have a copy of your employer’s grievance procedure to check that it is being dealt with appropriately. You should be able to get a copy of this procedure through your Human Resources department, or it might be in a staff handbook you were given when you started.

If your employer does not have a formal grievance procedure, then the independent Advisory, Conciliation and Arbitration Service (ACAS) has a model procedure you can follow.

**Alternative Dispute Resolution**

If your employer is unable to resolve your grievance or complaint, you should try and resolve your dispute through “alternative dispute resolution” (ADR). This covers a range of ways in which an employee (or job applicant) and employer can engage to try to resolve the dispute without having to go to an Employment Tribunal.

**Mediation**

The most popular form of ADR is mediation. Mediation can often save you a great deal of time and money, as well as the emotional trauma of a court case, especially if you don’t have the means to access legal help.

Mediators are professionally trained and their sole interest is in helping you and your employer find a solution. However, they do not give legal advice or make any decisions or judgments in your case.

Mediation is widely available through a range of mediation schemes and if you decide to use it, you and your employer should arrange an independent and accredited mediator. ACAS provide a free mediation service you can use.

**Industrial Tribunal**

If you are unable to resolve your dispute through your employer’s grievance procedure or through ADR, such as mediation, then you can take your case to the Office of the Industrial Tribunal and Fair Employment Tribunal (“the Tribunal”). You can take your current employer, a prospective employer you applied to for a job or your former employer to a tribunal.

If you want to start a case in the Tribunal you must do so within three months from the date of the act of discrimination.

An Industrial Tribunal is an independent judicial tribunal made up of a panel of three people, including a professional lawyer. It is similar to a court, but not as formal.

At the Tribunal, the panel will assess your case and, if they find in your favour, can award you with a type of “remedy”. The different remedies they can award include:

* **Declaration**: the tribunal can formally recognise that discrimination took place
* **Compensation**: your employer has to pay you for loss of earnings or “injury to your feelings”
* **Recommendation**: your employer has to take certain action to change their treatment of you or other people in your position
* **Reinstatement/re-engagement**: your employer has to re-employ you

An Industrial Tribunal can be very complicated and difficult to prepare for. It can also be very stressful, so you should make sure you have advice and support from an independent organisation before starting a case.

**Further sources of information**

**Advisory, Conciliation and Arbitration Service**

ACAS (Advisory, Conciliation and Arbitration Service) aims to improve organisations and working life through better employment relations.

Telephone: 0300 123 1100

Text Relay: 18001 0300 123 1100

[**acas.org.uk**](http://www.acas.org.uk)

**Equality Commission for Northern Ireland**

The Equality Commission for Northern Ireland is an independent public body established under the Northern Ireland Act 1998. Their mission is to advance equality, promote equality of opportunity, encourage good relations and challenge discrimination through promotion, advice and enforcement.

Telephone: 028 90 500 600
Textphone: 028 90 500 589
Enquiry Line: 028 90 890 890
Fax: 028 90 248 687
Email: **information@equalityni.org**

**equalityni.org**

**Your local Citizens Advice Bureau**

The Citizens Advice service helps people resolve their legal, money and other problems by providing free, independent and confidential advice, and by influencing policymakers. Visit the website below to find your local office.

[**citizensadvice.org.uk**](http://www.citizensadvice.org.uk) or to find your local law centre go to [**lawcentres.org.uk/about-law-centres/law-centres-on-google-maps**](https://www.lawcentres.org.uk/about-law-centres/law-centres-on-google-maps/geographically).

**Law Centre NI**

Law Centres are not-for-profit legal practices providing free legal advice and representation to disadvantaged people.

Telephone: 028 9024 4401
Fax: 028 9023 6340

[**lawcentreni.org**](http://www.lawcentreni.org/)

**Your Trade Union**

If you are a member of a Trade Union, you may have access to free legal advice and assistance. You should check with your representative about the types of help available to you.

**Industrial Tribunal**

Industrial Tribunals hear claims about matters to do with employment. These include: unfair dismissal; redundancy payments; and discrimination.

Telephone: 0845 795 9775

[**www.justice.gov.uk/tribunals/employment**](http://www.justice.gov.uk/tribunals/employment)

**RNIB Northern Ireland Employment Services**

We can provide specialist support and advice to help you find work or to stay in your job if your sight deteriorates. Our employment specialists can be contacted through calling our Helpline.

**RNIB Helpline**

If you would like any more information about the Disability Discrimination Act you can contact our Helpline on **0303 123 9999** or by emailing **helpline@rnib.org.uk****.**

Our Helpline is your direct line to the support, advice and services you need. Whether you want to know more about your eye condition, buy a product from our shop, join our library, find out about possible benefit entitlements, or be put in touch with a trained counsellor, we’re only a call away.

It’s also a way for you to join RNIB Connect, our community for anyone affected by sight loss. RNIB Connect is free to join and you’ll have the chance to meet other people with similar experiences in our helpful, welcoming and supportive community.

Give us a call today to find out how we can help you.

We’re ready to answer your call Monday to Friday 8am to 8pm and Saturday 9am to 1pm. You can also email us at **helpline@rnib.org.uk****.**

**Disclaimer**

This factsheet gives general guidance only and is not an authoritative statement of the law.

RNIB Legal Rights Service

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