

R N I B

See differently



Equality Act – challenging discrimination toolkit



Challenging discrimination by service providers

If you believe that you've been treated unfairly because of your sight loss or because you have a guide dog, then you can challenge the service provider using the Equality Act 2010. Under the Act you're entitled to be treated fairly. You can, for instance, ask for reasonable adjustments to be made to services or policies, such as a no dogs policy, to enable you to access those services.

For example, did a restaurant owner say that you couldn't bring your guide dog into the restaurant? Did a hotel refuse your booking or increase the charges to you because you have a guide dog? Did a taxi driver refuse to carry you and your guide dog?

We have created this toolkit as a guide and to empower you to take appropriate action if you have been treated unfairly by a service provider.

In this Equality Act Toolkit you will find:

- An introduction to your rights under the Equality Act.
- A step-by-step guide to making a complaint.
- Examples of what action you could ask a service provider to take in order to ensure their services are not discriminatory.
- An example complaint letter that shows you what information an effective complaint might include. You can use this as a template for your own letter but it should be tailored to your situation.
- An advocacy letter from Guide Dogs and RNIB. This letter provides a summary of the law and information about the obligations of the service provider. You can send this letter with your own complaint letter.

An Introduction to your rights

What is the Equality Act 2010?

The Equality Act legally protects people from discrimination, including disability discrimination. The legislation aims to help people with a “protected characteristic” and disability is a protected characteristic.

Does the Equality Act apply to all of the UK?

No. The Equality Act applies in England, Scotland and Wales. In Northern Ireland similar legislation called the Disability Discrimination Act (DDA) applies. In the Isle of Man the Isle of Man Equality Act 2017 applies.

Which people with sight loss does the Equality Act apply to?

People who are certificated as sight impaired or severely sight impaired automatically meet the definition of a disabled person in the Equality Act.

What about people who don't have a certificate of vision impairment?

A person has a disability, and so has a protected characteristic, if they can show they have a “physical or mental impairment” that has a “substantial and long-term effect on their ability to carry out normal day-to-day activities”.

How might the Equality Act help me?

Because of the Equality Act, service providers have a duty to make reasonable adjustments to avoid putting people with disabilities at a substantial disadvantage compared to people who are not disabled.

Who is a “service provider”?

A service provider is an organisation or a person who provides a service to the public. It does not matter if the service is paid for or free. The word “service” includes providing or selling goods as well as a mixture of selling goods and providing a service.

For example, buying food would be covered (goods) as well as having your hair cut (service) or a meal in a restaurant (goods and service). All of these are examples of situations covered by the Equality Act as “services” and all of the companies or individuals would be “service providers”.

What is a “substantial disadvantage”?

A substantial disadvantage is a disadvantage that is “more than minor or trivial.”

When is an adjustment “reasonable”?

This depends on various factors and will vary from case to case. These include:

- how effective the adjustment will be in overcoming the substantial disadvantage
- the practicality of making the adjustment
- the cost of the adjustment and the resources of the service provider
- the size and nature of the service provider
- what help (such as funding or advice) is available.

All of these factors need to be balanced when deciding what is reasonable. It is important to bear this in mind because what is reasonable will not necessarily be the same as what you want. You may, in some cases, need to be flexible.

What can you do if you feel that you have been discriminated against?

You can challenge discrimination in different ways. These range from raising a complaint or grievance to starting a court case.

If your complaint relates to an access refusal to a taxi it is possible to complain directly to the licencing authority who issued the taxi driver's licence. The licensing authority normally sits within the local council. The licensing authority could take action to suspend or revoke the driver's licence to operate a taxi.

The first step should always be to make a complaint. Many disputes can be quickly and amicably resolved through making a complaint or through dialogue.

Remember – there are time limits for taking court action. If you have been discriminated against by a service provider, the time limit for bringing a court case is six months less one day from the date of the discrimination, so check the date of the discrimination to ensure deadlines are not missed. If your letter of complaint has not

resolved the issue then any court action must be taken within this time limit.

You can find more detailed information about the Equality Act in our Factsheets at rnib.org.uk/equalityact

On the next pages you will find the tools we have created to help you to challenge discrimination.

A step-by-step guide to writing a complaint letter

Writing a complaint letter is the easiest way for you to tell a service provider about a problem you have encountered with its service. It's also an opportunity for you to let them know how you would like to resolve it. A good complaint letter is clear and concise and it will cover all the key points. The clearer your letter, the easier it will be for the person receiving it to resolve your problem quickly.

Before you start

Think back to the incident and try to remember as much detail as you can, making notes as you go. This is your opportunity to say what happened to you, why you think it was wrong and what you want the service provider to do. If you were with someone else when the incident occurred (a family member, friend or colleague) it might be useful to compare their memory of events with yours.

Try to avoid being rude or sarcastic. It's understandable that you're going to be upset and angry about a situation but it will not help you to be rude. If you are, it's more likely that the person dealing with the complaint will see you as "being difficult", which can undermine your complaint.

Structuring your complaint letter

A complaint letter that is easy to understand and persuasive is more likely to get you a positive result than a long and rambling letter. There are four key parts to a complaint letter and we will outline what should go into each of them below.

Introduction

A good way to start is to say that your letter is a complaint. This should get the attention of the person reading it and make it clear that they need to take the matter seriously. You could then state briefly what the complaint is about. Try to keep this to a few lines as you will be giving a more detailed description later.

For example: "I am writing to complain about the service which I received at your café on Friday 15 December 2017. A member of staff called Marie was very rude to me and I was told that I could not bring my guide dog into the café."

If you are certificated as sight impaired or severely sight impaired you should state this at this point. This enables you to say that you are a disabled person as defined by the Equality Act and that the service provider has to comply with the Act.

If you are not certificated, but you think you meet the definition of a disabled person (see above), you should say so in the letter and say what your sight loss is.

For example: "I have retinitis pigmentosa. This is a type of sight loss which means that I have tunnel vision and cannot see things which are not directly in front of me. This sight impairment means that I meet the Equality Act's definition of a disabled person. As I am a disabled person, you and your staff must comply with the Equality Act."

Remember to tell the service provider what your preferred format is. For example, 20 point Arial or email.

Describing what happened

Next you will need to say what happened to you. Your description does not need to be particularly long, but it does need to give the key facts. You should give the date or dates of the incident and the name of the person(s) you spoke to if you know these.

If something was said which is important then you should include it. This is important if you are complaining about rudeness by the service provider's employee.

You should say how the way you were treated made you feel. This is important as the Equality Act says that a court can award financial compensation for "injury to feelings". You should say if the treatment made you feel upset.

For example: "I was very upset and immediately left. I felt completely humiliated by your employee shouting and being offensive, and this was made worse because it took place in public and other people witnessed it. I was so upset that I was almost in tears."

Your complaint must be accurate. Do not be tempted to exaggerate or include details which did not actually happen. If you have to take the case to court and it is proved that you gave false information, this will damage your case and you could lose.

The legal bit – the Equality Act

As your complaint is that the service provider has broken the law, you need to mention the Equality Act. This does not mean you have to include lots of detail about the Act – our standard advocacy letter in this toolkit can do that for you.

Point out that the Equality Act says that service providers are not allowed to discriminate against disabled people. You can then explain how the service provider discriminated against you. If your complaint is that reasonable adjustments were not made for you, you should say this.

For example: "You have to make reasonable adjustments to your no dogs policy in providing your service. This means that you should allow guide dogs into your café."

What do you want the service provider to do?

You need to tell the service provider what you want them to do to resolve the situation. Think about this carefully. You need to be realistic, but don't be afraid to ask for what you really believe is suitable to resolve the problem. We have included some suggestions based on situations we have dealt with.

- **Apologise:** an apology can go a long way to addressing this sort of situation. However, it should be sincere. Sometimes, a service provider has made an honest mistake and simply not understood a situation or their legal obligations.
- **Change a procedure:** this can prevent a similar situation happening to you or someone else in the future. An example is changing a "no dogs" policy to say "No dogs – except assistance dogs". The service provider could advertise this change to explain that it has made the reasonable adjustment. For example: putting an "Assistance dogs welcome" sticker in a shop or restaurant window.
- **Train staff:** staff may not have understood what they needed to do. Arranging for staff training can be a way to avoid similar situations happening and also shows that the service provider is serious about complying with the Equality Act. It can also be a positive benefit to the service provider.
- **Provide compensation:** money can be important but the courts do not tend to award large sums of money as compensation. If you would like to discuss this further please contact the RNIB Helpline on 0303 123 9999 or your local Guide Dogs Mobility Team.
- **Taxi Refusal Cases:** In the case of a taxi refusal you may wish to point out that you could complain directly to the driver's licensing authority which could result in a prosecution against him and his licence being suspended or revoked.

Deadlines and other points to remember

Give the service provider a reasonable period of time to respond to you. 14 to 21 days is usually reasonable. If the service provider has a complaints procedure it may acknowledge your letter and say that you should receive a full response within 28 days. Remember to keep copies of all the letters you send to the service provider.

Remember to send a copy of our **standard advocacy letter** with your own complaint letter. This summarises the Equality Act duties and, because the letter is headed by RNIB and Guide Dogs, it can help to emphasise that the situation is important.

When you get the service provider's response, read this carefully and compare it with what you have asked for. The service provider may robustly deny that it has done anything wrong. Equally it may concede that it was at fault.

The complaint letter (an example is set out below) is the start of the process and you may need to exchange more letters with the service provider before you resolve the situation.

So that we can monitor access issues and experiences encountered in addressing them please keep RNIB/ Guide Dogs local mobility team informed of your progress.

We would welcome any feedback on this toolkit.

If you need further information or advice, please contact your local Guide Dogs Mobility Team or RNIB's Helpline on **0303 123 9999** and we will be happy to assist.

Contact us:

Contact your local Guide Dogs Mobility Team

Or

Hillfields

Burghfield Common

Reading

Berkshire

RG7 3YG

Tel: 01189 835 555

RNIB

105 Judd Street

London

WC1H 9NE

Tel: 0303 123 9999

Email: helpline@rnib.org.uk

Example complaint letter

Mrs E Smith
Café Bonbon
Mobberly
Manchesterford

3 January 2018

Dear Mrs Smith

I am writing to complain about the service that I received at your café on Friday 15 December 2017. I was spoken to very rudely by your member of staff called Julie, and I was told that I could not bring my guide dog into the café.

I am registered blind, and this means that I meet the Equality Act's definition of a disabled person. As I am a disabled person, you and your staff must comply with the Equality Act. Although I am registered blind, I have a small amount of vision. This means I can see objects that are in the centre of my vision and so I can see someone standing in front of me.

When you reply to me, please use 20 point Arial font. This is the format that I can read.

My complaint

On 15 December 2017, I went to your café for lunch. I had been shopping in town for some hours and the town was very busy with people doing their Christmas shopping. I had to concentrate on following the way that my guide dog was helping me to navigate along the crowded streets, and this was very tiring.

When I went into your café, I was immediately told by one of your staff that I could not bring my dog in. My guide dog, Milo, was wearing his fluorescent harness which clearly states that he is a guide dog. I explained that Milo is a trained guide dog and that I needed Milo to be with me as he helps to guide me.

Your employee said that dogs weren't allowed in the café as they are unhygienic and she also said that she was sure he would try to take food from people's tables. I explained that guide dogs are specially trained not to do this. I tried to show your employee the ID card which the organisation Guide Dogs issue. This includes a picture of Milo and confirms that he is an authorised and trained guide dog.

I also said that under the Equality Act, your café should make a reasonable adjustment to your 'no dogs' policy and allow guide dogs into the café. Your employee told me that dogs weren't allowed and I had to leave. When I asked her what her name was, she said it was Julie, and again said that I couldn't bring a dog into the café. She then accused me of being difficult and upsetting other customers. I did not hear anyone else make any complaint about me or my guide dog, and although I have only tunnel vision, I could see that there were several people in the café. I asked to speak to the café manager, but Julie said that you were out, although she did give me your name.

I again said that Milo isn't a pet dog, but a trained guide dog and that he has been in other cafés and restaurants without any problems. I also said that if she didn't allow Milo and I into the café, that this would be discrimination. Julie then raised her voice and shouted at me to leave and to "take your filthy dog with you". I was very upset and immediately left. I felt completely humiliated by your employee shouting and being offensive, and this was made worse because it took place in public and other people witnessed it. I was so upset that I was almost in tears.

Discrimination

The Equality Act 2010 says that service providers are not allowed to discriminate against disabled people. As you run a café, you are a service provider. The Equality Act says that you are not allowed to refuse to serve disabled people like me or to treat disabled people in a worse manner by being rude.

You also have to make reasonable adjustments to your service. This means that you should allow guide dogs into your café, because I have to rely on the guide dog to navigate around in public.

As you are Julie's employer, you are responsible for what she did. This means that even though you weren't in the café, you are responsible for your employee's actions.

How to put this right

I am making a complaint as I feel this is the only way to deal with the rude and discriminatory way I was treated. I would like you to apologise in writing and to assure me that you will make sure that you allow guide dogs into your café and to put a notice in your café window that says that guide dogs are welcome.

I would also like you to ensure that your staff are trained in their responsibilities under the Equality Act and understand they cannot treat disabled people in the way Julie treated me as this is discriminatory. I feel you should also compensate me financially and it would be helpful if you could suggest a figure.

I would prefer to sort this situation out in this way amicably. However, should you fail to respond positively, I am if necessary, prepared to take legal action against you in court.

I have also included a copy of a standard advocacy letter from RNIB and Guide Dogs. This gives a short explanation of the Equality Act and what you have to do to make sure you comply with the Act.

I look forward to hearing from you within 14 days.

Yours sincerely

Mrs P Gordino

Advocacy letter

This is a standard letter

Dear Service Provider

The Equality Act 2010 – what it means for you and your business

The Equality Act 2010 is a piece of legislation that aims to ensure we have a fair and equal society. This includes making sure everyone has an equal opportunity to use services. The Equality Act sets out specific duties with which “service providers” have to comply. You are receiving this letter because a blind or partially sighted person believes that you, as a service provider, have broken the law and discriminated against him or her.

The Equality Act says that service providers are not allowed to discriminate against people by treating them less favourably because of their “protected characteristic”. This means disability, gender, race, sexual orientation, religion or belief or age (over 18 years old). Discrimination in providing services means:

- refusing to serve them
- providing a service of a poorer quality than it would provide to the public
- providing a service on worse terms or in a worse manner than it would provide to the public
- terminating a service which it is providing to someone.

Service providers are also not allowed to harass or victimise someone because of a protected characteristic.

There is a further specific duty which only applies to disabled people. This is the duty to make reasonable adjustments. You must comply with this duty.

If you do not make a reasonable adjustment, you are breaking the law.

Section 20 of the Equality Act says that:

1. You must take reasonable steps to change any “provision, criterion or practice” which put a disabled person at a “substantial disadvantage” if she or he wants use your service.

This includes waiving a “no dogs” policy so that people who are blind and partially sighted with guide dogs can enter your premises’.

2. If a physical feature puts a disabled person at a “substantial disadvantage” when she or he wants use your service, then you must take reasonable steps to avoid that disadvantage. This includes removing or altering the physical feature or providing a reasonable means of avoiding it.
3. You must provide an auxiliary aid or service if, without this, a disabled person would be at a “substantial disadvantage” in using your service. The law specifically says that reasonable adjustments include providing information in an accessible format. For example, in large print, braille or an electronic format.

The reasonable adjustments duty is anticipatory. This means that you should realise that disabled people may want to use your service, and so you plan ahead so that you comply with the law. Not thinking about how to do this is not an excuse or a defence. Making sure that you comply with the law is in your best interests, and there is a good business case for doing this as well.

The individual will give you more details on how she or he believes that you have breached the Equality Act.

We ask you to address this person's complaint and ensure that you are complying with your obligations under the Act. If you fail to comply with the Equality Act, the individual can take you to court. If you lose, then the court could order you to pay compensation, and you could also be ordered to pay that person's legal costs. Investigating the complaint and speaking to the individual or using independent accredited conciliation or mediation schemes may be a way to resolve the dispute without going to court.

Please respond to the person making the complaint rather than to Guide Dogs or RNIB.

If you want to know more about the Act you can find more information at

www.equalityhumanrights.com/advice-and-guidance/service-providers-guidance

Royal National Institute of Blind People

The Guide Dogs for the Blind Association

In partnership

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