

Disability Discrimination Act

1. INTRODUCTION

The Disability Discrimination Act (DDA) 1995 (& the OCT 2004 extension of the act) is the one piece of well-established anti-discrimination legislation that already applies across Great Britain.

The DDA provides for three types of discrimination:-

- Less favourable treatment
- Failure to make reasonable adjustments
- Victimisation

This British Weight Lifting (BWL) guidance deals with the requirements under Part III of the Act relating to goods and services, facilities and access. It is split into three sections:-

1. Provision of goods and services

This section will apply to all clubs, irrespective of their circumstances.

2. Provision of Facilities

This section will be most relevant to clubs that:-

- Own a facility
- Lease a facility
- Have a dedicated weights facility within another centre
- Are developing or renovating existing facilities

3. Useful Resources and Contacts

This section will apply to all clubs, irrespective of their circumstances.

2. DEFINITION OF DISABILITY

The DDA prevents discrimination on the grounds of a person's disability and defines a disabled person as being:-

'An adult, or child, who has a physical or mental impairment, that has an effect on his or her ability to carry out normal day-to-day activities**.'*

That effect must be:

- Substantial...
- Adverse...
- Long term (which is that it has lasted, or is likely to last for at least a year, or for the remainder of the life of the person affected)

*PHYSICAL OR MENTAL IMPAIRMENT INCLUDES SENSORY IMPAIRMENTS. HIDDEN IMPAIRMENTS ARE ALSO COVERED (E.G. MENTAL ILLNESS OR MENTAL HEALTH PROBLEMS, LEARNING DISABILITIES AND CONDITIONS SUCH AS DIABETES OR EPILEPSY).

**‘NORMAL DAY-TO-DAY ACTIVITIES’ CAN BE DEFINED AS MOBILITY; MANUAL DEXTERITY; PHYSICAL CO-ORDINATION; CONTINENCE; ABILITY TO LIFT, CARRY OR OTHERWISE MOVE EVERYDAY OBJECTS; SPEECH; HEARING OR EYESIGHT; MEMORY OR ABILITY TO CONCENTRATE, LEARN OR UNDERSTAND.

3. IN WHAT CONTEXT IS DISCRIMINATION UNLAWFUL?

Discrimination under the DDA is unlawful in the following respects:-

- Employment
- Providing goods, facilities and services to the public

To date the Act is split into three parts, which have been brought into force over a period of time.

- I) Part I of the Act defines disability and outlines how the act operates (This has already been in force since 1995).
- II) Part II of the Act relates to employment and makes it unlawful to discriminate against a disabled person in relation to employment issues and recruitment.
- III) Part III of the Act makes it unlawful to discriminate against a disabled person in relation to the provision of goods, services and facilities.

The DDA requires service providers to make ‘reasonable adjustment’ to services, goods and facilities to allow access for people with disabilities. The phrase “reasonable adjustment” is used in law to provide some level of flexibility and allow alternative solutions in different circumstances. The onus is on the club to determine what is ‘reasonable’ based upon their own particular circumstances but essentially this also means taking a common sense approach.

The term ‘reasonable’ varies depending upon the type of service offered, the size of facility, and available resources. There is no ‘rulebook’ and different clubs will have different needs; what is considered ‘reasonable’ for a large well-established club may not be viewed as a ‘reasonable’ adjustment for a smaller club.

Factors to consider when making reasonable adjustments include:-

- Cost of making the adjustment...
- Whether the action taken would make a facility accessible and...
- Disruption, if any, the adjustment would cause.

4. INSURANCE

BWL provides all clubs with 'Civil Liability' insurance, which encompasses protection against any civil claims that are brought under the DDA.

However, clubs and members that fail to take adequate steps to comply with the requirements of this guidance may find that their insurance is invalidated and as a result, will be responsible for any legal costs and compensation awarded against them.

SECTION 1

1. PROVISION OF GOODS AND SERVICES

If you provide any service to the public whether you charge for it or not, you will potentially have responsibilities to accept and duties to carry out under the DDA.

You will need to make 'reasonable adjustments' to the way in which you provide your services to ensure that you do not discriminate against disabled people. You should not refuse to provide opportunities to a disabled person or offer them a lower standard of service because of their disability.

BWL reminds all clubs that in relation to the terms of the Disability Discrimination Act (1995) they are considered to be service providers (to reiterate; anyone who provides goods, facilities or services to the public whether these services are paid for or free).

This means that 'clubs' and 'coaches' are duty bound to comply with the duties placed on them by the DDA act & both coaches / clubs should:-

- Avoid treating any disabled person less favourably than other members of the public...
- Make reasonable changes to practice, policies and procedures in order to make it easier for disabled people to use the services provided...
- Take reasonable steps to remove, alter or provide alternative means of avoiding physical features of premises that make it impossible or unreasonably difficult for disabled people to use services provided.

2. INCLUSION

Club Policy

It is important to ensure that the club's constitution and any related club policies / visions reflect the inclusive approach that needs to be adopted.

BWL expects clubs to include people with disabilities into the existing sessions they provide. Clubs should ensure all potential members are asked to complete a registration form, which requests information on any medical conditions or disability.

The form should note that the club reserves the right to request further information / medical approval to ensure that taking participation in any weights orientated activity would not cause adverse effects on the participant's health. The information provided on the registration form should also be used to help identify any adjustments that can be made to support the inclusion of the applicant into any weights orientated activity.

Clubs are reminded that coaches do not need to hold any additional qualifications* in order to accept an individual with a disability into an existing class. (*It is strongly recommended that the Sports Coach UK (SCUK) 'Working with Disabled Sports People' (2hrs) and / or 'Coaching Disabled Performers' (3hrs) along with Sport England's 'A Club for ALL' (3hrs) courses are seriously considered by anyone that could be working with Disabled people in a sports orientated arena)

The DDA requires that people with disabilities are included within existing classes; however, there are some circumstances that may require further consideration into whether participation in any weights orientated activity is appropriate i.e.

- The presence of any additional health concerns that contra-indicate appropriate participation on medical grounds. (Disabled people can be requested to provide evidence from a medical practitioner to verify that it is considered appropriate for the individual to participate in any specific / particular activity).
- Identification of an unacceptable level of risk being posed to the health, safety or well-being of either:-
 - i. The disabled person...
 - ii. Others they are likely to come in contact with if included within existing sessions.
- Recognition that the *inclusion of a disabled person would require irrevocable and impractical changes to the programme(s) provided in existing classes.

(Making reasonable adjustment is all about doing what is practical in your individual situation and making use of what resources you have. You will not be required to make changes that are impractical or beyond your financial means.)

In the event that a club / coach refuses to accept a disabled person into an existing class, BWL will only support that club / coach if they do so on reasonable grounds that can be supported by clear & warranted evidence.

Inclusive Practice

Consultation:

Disabled people know best how issues of communication and access can be addressed. It is important to consult with disabled people, not make assumptions, on any key club inclusion strategies.

Appropriate consultation will enable you to determine the best practices for recruiting and involving disabled members.

Communication:

Any club information given out in the usual form of notice boards, newsletters etc should also be available to club members in a range of formats e.g. large print, Braille, audiotape, and any other appropriate formats.

Coaching:

When a club has members with a disability it is important for coaches to have some disability awareness. Some basic courses as previously mentioned are available from Sports Coach UK, Sport England and the EFDS. It is also best practice to involve disabled members in the clubs coaching structure, to undertake coaching (development) training, and involve them in the generic coaching of disabled and non-disabled athletes.

Club Administration:

Clubs might have an administrative structure where it is managed or run by its members. Disabled people should be encouraged, enabled and empowered to contribute to club administration.

In this way they can be consulted on all areas of the clubs functioning, be part of the decision making process, take on responsibilities and generally make a contribution to the club's organisation.

Depending on the needs of the individual this will require giving thought to how these committees function so that they can contribute fully.

This may mean ensuring that meetings are held in a room that is physically accessible.

If the person has a visual impairment this may mean presenting minutes in Braille/audiotape or if the person has an auditory impairment, ensure that there is an interpreter. Maybe the person will have a learning disability, so consider appointing an enabler who will work with the person to help them understand both the procedure of meetings and the content of the agenda.

3. CLASSES SPECIFICALLY FOR PEOPLE WITH DISABILITIES

In acknowledgement that it is not always possible or appropriate to include people with disabilities into mainstream weights orientated activities, BWLA supports the view that there must be some scope to provide sessions specifically for people with disabilities, except where there are medical grounds that would contra-indicate safe and appropriate participation. All coaches who intend to deliver any weights orientated sessions specifically for people with disabilities should consider the aforementioned courses and / or the Inclusive Fitness courses offered by the English Federation of Disability Sport (EFDS)

4. EXAMPLES OF REASONABLE ADJUSTMENTS MADE BY SERVICE PROVIDERS

- Introducing Disability Awareness training for all staff.
- Speaking clearly to customers who are hard of hearing.
- Ensuring your website text size is variable for the visually impaired and accessible to those who use screen-readers.
- Offering copies of any newsletters in large print / different font versions.

- Providing information in accessible formats like Easy Read for customers with learning difficulties.

Why is including disabled people good for your club?

- Can attract new members to your club, including potential elite performers
- Increases the number of potential administrators, leaders, participants and coaches for your club
- Can provide more revenue / income for your club from wider membership
- Gives your club a positive public image as an organised, fair and forward thinking club
- Provides robust evidence which can support funding applications
- Attracts new partner organisations to your club including groups and organisations you may never have worked with previously
- Ensures that your club complies with the law

SECTION 2

1. PROVISION OF FACILITIES

This section of the guidance will address the following key areas:

- General Facility areas e.g. car parking, toilets, general access to facilities
- Fitness / Weights areas – the fitness suite / gym and specialist equipment
- Competition arena

These issues will, on the whole, be most relevant to clubs who own, or lease a facility, where they are responsible for all aspects of the building and surrounding facilities. The guidance is equally applicable to those wishing to renovate or design a new facility as it is to those with existing facilities.

2. STATUTORY OBLIGATIONS

The basic obligation under Part III of the Act comes into Section 21(2) of the Building Regulations Part M 'Access and Facilities for Disabled People 1987 (Revised 2004)'. A copy of this document can be found at: www.safety.odpm.gov.uk/bregs/brad13.htm

Within Part M of the Building Regulations, where a physical feature (for example, one arising from the design or construction of a building, or the approach or access to premises), makes it impossible or unreasonably difficult for disabled persons to make use of such a

service, it is the duty of the service provider to take such steps as are 'reasonable', in all circumstances of the case, in order to:-

- Remove the feature
- Alter the feature so that it no longer has the same effect
- Provide a reasonable alternative means of avoiding the feature, and or
- Provide a reasonable alternative method of making the service in question available to disabled persons.

In this instance, physical features as defined in the Disability Discrimination (Services and Premises) Regulations 1999 are:-

- i. Any feature arising from the design or construction of a building on the premises occupied by the service provider
- ii. Any feature on those premises or any approach to, exit from or access to such a building
- iii. Any fixtures, fittings, furnishings, furniture, equipment or materials in or on such premises
- iv. Any fixtures, fittings, furnishings, furniture, equipment or materials brought onto the premises
- v. Any other physical element or quality of the land

In other words, anything and everything whether fixed or not, temporary or permanent, to do with the property.

In all cases, a club should carry out an access audit to determine its access requirements and from this form an access action plan with prioritised work.

It is advisable to use appropriately qualified or experienced personnel to undertake an access audit and to draw up an appropriate plan of action.

When an access audit is undertaken and complete, it will be possible for the club to plan for making appropriate accessible provision. Any major works that need to be carried out can be considered according to urgency and restrictions e.g. cost. Large projects which show in the plan can be completed at a later date when funds to complete the task have been identified.

3. GENERAL FACILITY AREAS

The list below shows examples of the areas that a facility provider might need to consider when completing an access audit (more info pg 9). Absolutely in-depth information on the

requirements of the following areas has not been included since each club will have differing requirements and certainly not every item listed below will be applicable at all clubs:-

- Access route within the site (signs, width, obstructions, visibility)
- Car parking (proximity to building, suitable surface, gradient, maintenance)
- Ramps and Steps (rest platforms, width, gradient and permanence of ramps, slip resistance, handrail provisions, lighting, visibility and alternatives)
- Entrance and Reception (powered entrance doors, visibility of glazing, colour contrasts, visibility, security protection, weathering, signage, reception desk design, provisions for hard of hearing, trained staff)
- Horizontal Movement and Activities (passageway widths, obstructions, colour, lobbies, signage, illumination, seating)
- Vertical Movement and Level Change (ambulant stairs, ramps, lifts, platform hoists, signs, illumination, audibility)
- Doors (widths, colour contrast, ironmongery design, fire safety, security, closing devices)
- Lavatories and Changing Area (provision, alternative transfer, rails, colour, glare, fitting locations, alarms)
- Fixtures, Fittings and non - specialised Equipment (accessibility, colour contrast, illumination, suitability for use by staff or public)
- Information and Controls (audibility, print versions, Braille versions, signage, colour contrast, trained staff)
- Means of Escape (audible alarms, assisted escape, trained staff, refuges, plan availability, testing of systems)

4. WEIGHTS / FITNESS FACILITY AREAS

The following list identifies just some examples of the areas that an access audit should consider in order to comply with DDA part III. The guidance is generic and does not fully consider specific discipline requirements and the following web sites <http://www.sportengland.org/disabled.pdf> & www.inclusivefitness.org will offer further comprehensive information and guidance to the examples given below:-

- Space between any items of apparatus (1000mm minimum)

- Space to traverse around to edge of the facility and to access emergency exits (1000mm gap minimum)
- Colour scheme (clear contrasted colours to equipment and facilities)
- Equipment (easily identified against the background colour scheme of the facilities)
- Training areas (ramp access, colour schemes, clear access)
- Safety mats (if used) contrasting colour top and edges, consistent depth across facility floor

Specialised equipment considerations (For all disability user groups):-

- Ease of access onto / into
- Comfort
- Range of movement
- Range of resistance
- Adjustability
- Ease of use
- Ease of programming
- Ease of access out of / off from

5. COMPETITION ARENA

When using a facility to host a competition or other such event, additional considerations over and above those to be considered for every day training might include:-

- Spectators (access to facilities for wheelchair spectators, guide dogs etc)
- The Competition Floor (which might also need to be accessed by an athlete, coach or official with impairment)
- Equipment (such as International Paralympic Committee regulation bench for Paralympic powerlifters)

In addition to the BWLA / IWF standards, the IPC have additional adapted rules for competition that allow the following:-

1. Use of IPC regulation strapping whilst on the bench

It is strongly recommended that you visit the following website for more extensive details of the DDA and the impact it might have on you / your club www.opsi.gov.uk/acts/acts1995/1995050.htm

6. ACCESS

Access to the sports of Weightlifting / Powerlifting for people with disabilities including opportunities for them to coach and contribute to the club administration, can be facilitated with the application of some thought and consideration and sometimes plain common sense.

In addressing the potential for the fully integrated / inclusive provision of any weights orientated activity, the following broader user groups have been considered.

- Wheelchair users and the ambulant person with a physical impairment
- People with a visual impairment
- People with an auditory impairment
- People with a learning impairment

Inclusive participation in the sport of 'lifting' will only work if the right attitude to disabled people exists within the club. This might mean giving club members some 'Disability Awareness' or 'Equity Training' – relevant courses available via Sport England.

Whilst access to participation in weights orientated activity can be somewhat facilitated by appropriate equipment and coaching programmes, of at least equal importance are the en-route access and mobility needs to and then in and around the facility. It is then also very important to encourage disabled people to join in any other club activities including social and committee structures.

Although they are very important issues themselves, access is more than just providing ramps and having doorways with sufficient width for wheelchairs. Access can mean many other things, e.g. access to information, or a socially welcoming environment.

The needs of people who experience mobility difficulties but are not necessarily wheelchair users, people with visual impairments, those who are deaf or have hearing impairments, and those with a learning disability, all need to be equally catered for where our services are available to the public – paid for or otherwise. You should be aware that by providing an accessible resource for disabled people you often give improved access to other groups in the community such as the elderly, and those with temporary 'special needs', such as parents with pushchairs.

On the whole we practice our sport in an environment, which has generally been designed and developed by non-disabled people for use by non-disabled people. Often it is the features of a facility that create the unnecessary barriers to accessing a 'service' – 'the social model of disability'.

The aim must be to provide as inclusive an environment as possible so that the activities and facilities within the club are then accessible to all club members irrespective of their 'ability'.

A clear and well-lit notice board for example will be seen equally well by people with a visual impairment, as it will by the rest of the club members.

Many modifications and adaptations to existing facilities can be made simply by having a common sense policy that resolves to address the needs of all members. In this way changes are then considered every time a change or renewal of any facility / equipment is reviewed in the usual cycle of repairs and maintenance. Often the renewal or repair of a resource to incorporate inclusive use is no more costly than to restore the facility to its original, but non-accessible function.

Finally, it is important for everyone in a club to be encouraged to adopt a positive attitude towards the inclusion of disabled people; that will at least help them to avoid creating barriers to participation.

This is all too often more difficult than addressing any physical barriers, but will be essential to the success of a clubs inclusive policy and practice.

7. Access Audit

An access audit is useful tool for enabling different user groups that might want to access your club and the services it provides; including not least people with physical, sensory and cognitive impairments and those which may be progressive, intermittent or permanent.

An accessible inclusive club benefits everyone, including people who use wheelchairs, older people and families, particularly those with young children.

An appropriate 'Access Audit' should include:

- Location
- Car Parking
- Footpaths
- Steps
- Access to Equipment
- Access to Facilities
- Toilet / Changing Facilities
- Signage & Information
- Equity

8. Audit Strategy

An extensive access audit should follow a logical sequential journey following how people arrive at, enter, move around, use (all services) and leave the club starting from the club perimeter progressing through car parking areas, pedestrian routes, building entrances, reception areas, information, delivery, horizontal and vertical circulation routes, internal spaces, facilities and exits.

The audit should preferably be carried out by a suitably competent person familiar with access and disability issues relating to the sport.

The following appendices allow clubs to formalise an action plan for the provision of inclusive lifting – post audit

All of the above could easily be placed into a basic development plan therefore outlining:

1. Your current position "where are we now"
2. Immediate action "what can we do now"
3. Long-term / ongoing action, "where do we want to progress to"
4. Who will do it / help to do it
5. Resources needed "where can we go for help/funding, who can help us"

By being concerned about these issues and wanting to enhance your services is just the first step.

SECTION 3

WHAT WILL HAPPEN IF SOMEONE THINKS I HAVE DISCRIMINATED AGAINST THEM?

The disabled person may complain to you, or they may take advice from the Disability Rights Commission, which has a conciliation service that takes up complaints on behalf of disabled people and they might seek to come to an agreement with you; however, the disabled person could also choose to take civil proceedings against you.

If the court decides that you have discriminated, you might have to pay damages for any financial loss, including 'injury to feelings' if you have not attempted to comply with this guidance. The disabled person could also seek an injunction preventing you from repeating the discriminatory act in the future.

Further advice and guidance are available from the following organisations:

Disability Rights Commission (DRC): This is an independent body that provides support and advice on a wide range of issues relating to disability.

Tel: 08457 622633 (Text phone 08457 622 644)

Web: www.drc-gb.org

Disability: for information about the disability discrimination act.

Web: www.disability.gov.uk/dda

National register of access consultants: This provides a list of access auditors who will assess your facility and provide advice and solutions on how to make it more accessible.

Web: www.nrac.org.uk

English Federation of Disability Sport:

Tel: 0161 247 5294

Fax: 0161 247 6895

Minicom: 0161 247 5644

Web: www.efds.net

Disability Sport Cymru: This national development programme is a joint initiative between the Sports Council for Wales, the Federation of Disability Sport Wales and Local Authorities, aimed at developing quality community based sporting and recreational opportunities for people with disabilities throughout Wales.

Tel: 029 2030 0500

Web: www.disability-sport-cymru.co.uk & www.fdsww.org.uk

Scottish Disability Sport: Leads the development of sport and physical recreation for people with disabilities throughout Scotland.

Tel: 0131 317 1130

Fax: 0131 317 1075

Web: www.scottishdisabilitysport.com

Disability Sport Northern Ireland Tel: (028) 9050 8255

Website: www.dsni.co.uk

