

information sheet



Foundation for Community Dance Information & Support • October 2004

Disability Discrimination Act (DDA)

The **Disability Discrimination Act (DDA)** aims to end the discrimination which many disabled people face. The DDA will affect community dance organisations of all scales and types, potentially impacting on the way community dance organisations deliver services and provide access for disabled people.

Implementation of the final phases of legislation affecting service providers happens on 1 October 2004. This Information Sheet aims to provide user-friendly information and support to Members of the Foundation for Community Dance, and consists of three sections:

Section One: What's it got to do with us?

A feature by Jo Verrent on how the DDA impacts on dance

Section Two: Getting more

information: sources of further information and advice

Section Three: What to do next

SECTION ONE: WHAT'S IT GOT TO DO WITH US?

How does the Disability Discrimination Act (DDA) impact on dance?

You might still be forgiven for not knowing too much about the DDA. It's not been publicised that much, there are few cases being taken through the courts and some people think that it can't possibly apply to dance.

Wrong. It does in many, many ways – including some that you might not have considered. And it's all about to get much more exposure. In October 2004 the final element of Part 3 of the Act comes into force and many disabled people are ready and waiting to mount challenges, so here is a quick run through of the main areas covered by the Act and how they might impact on the work that you do.

The Act was passed in 1995, and is being phased in. The parts affecting employment and access to goods and services are already current and 2001 saw an amendment relating to education (The Special Educational Needs and Disability Act (SENDA)). So what does each part mean you have to do?

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Access to Education

The SENDA amendment does not cover 'entirely private education providers', but if this applies to you - don't relax, this only means you are covered by the access to goods and services part of the legislation instead. Under the education part, there are two main requirements:

- disabled people must not be treated less favourably than non disabled people for reasons related to their disability without justification
- there is a requirement to make reasonable adjustments to ensure that disabled people are not placed at a substantial disadvantage

So what kind of adjustments are seen as being appropriate? It depends on the size and scale of what you do and the resources you have available, but the Code of Practice developed by The Disability Rights Commission specifies the following:

- changing admissions, administrative and examination procedures
- changing course content, including work placements
- changing physical features and premises
- changing teaching arrangements
- providing additional teaching
- providing communication and support services
- offering information in alternative formats
- providing training for staff

The duties apply to all aspects of student life including education, recreation, catering, work placements and accommodation; they also apply to disabled people enquiring about and applying to courses and auditioning. Action on all the above should be in place now with the exception of adjustments to the physical environment, which must be made by 1 September 2005.

How can we afford all that, I hear you cry? Students training at HE level or in receipt of a Dance and Drama Award from the Department for Education and Skills (DfES) have access to the Disabled Students' Allowances (DSA). For costs that this doesn't cover and for training programmes outside of these, you are expected to plan for expenditure within your main budgets.

Employment

All employees are protected under the DDA including freelance staff. Equally you are responsible for any discriminatory behaviour by any employee as this could result in action being taken against the organisation as a whole.

Like the education provision, the Act covers disabled people getting information about positions and applying for them as well as interviews and employment itself.

The Act states that treating a disabled person less favourably than a non-disabled person without a good reason is unlawful and that reasonable adjustments must be made to working conditions or the workplace to enable or assist a disabled person to do a job.

Suggestions of adjustments that may be considered reasonable include adjusting premises, altering hours or buying equipment. Again, the limits to what you are expected to do are set in relation to your size and capacity. It is likely that large companies would be expected to do more to adapt the workplace. Smaller companies, who do not have the funds, may not have to do so much. Employers must show that they have looked into the costs of adaptations and what funding is available to them. A good source of funds is Access to Work, available through Jobcentre Plus, which can pay for the full cost of adjustments for applicants or new members of staff and can contribute to the cost of adjustments for existing staff.

If your staff are accused of discriminatory actions or of aiding and abetting an act of discrimination it is a defence if the provider 'took such steps as were reasonably practicable' to prevent such actions. One way to do this is to ensure all staff had training around disability equality or disability awareness.

Access to goods and services

This is the big one. This part of the Act applies to anyone who provides goods, services or facilities to the general public, even if the services are free.

This covers all performances and events, all courses and classes and all publicity, websites, videos or resources produced by dance companies, agencies or organisations.

The Act means you are not allowed to treat a disabled person less favourably than you would treat non-disabled people without a justifiable reason and that you should make reasonable adjustments to make your services accessible. This means it is unlawful:

- to refuse to provide or intentionally not provide a service that would normally be provided to members of the public (for example, not letting learning disabled audience members into a performance or not allowing a wheelchair user into a dance class)
- to provide a lower standard of service to a disabled person (for example, making deaf people wait longer to be served or having a poor quality large print programme in comparison to the standard print version)
- to provide a service on less favourable terms to a disabled person (for example, making them undergo a medical examination that non-disabled people do not have or charging a visually impaired person more for a ticket as they need to sit near the front)

There are some justifications that make it acceptable to discriminate; where it is necessary in order not to endanger the health and safety of any person and when you would be prevented from offering the service to others by providing a service to the disabled person.

This means you do not have to do anything that is dangerous, irresponsible or that would fundamentally change the nature of your service. Also, there is the same emphasis on 'reasonableness' – which depends on the size, scale and capacity of your outfit.

Adjustments may be to policies, practices or procedures that make it impossible or unreasonably difficult for a disabled person to make use of a service (so if you have a 'no dogs' policy in your building, you need to amend it to include working dogs), or about providing help (such as audio description or an amplification system) or about providing the service by an alternative method where there are physical features that make it unreasonably difficult for a disabled person. From October 2004, you will also have to make adjustments to physical features or buildings too.

Anticipation

The duties set out for all parts of the Act are anticipatory. This means that you have to think about it before something happens! All organisations have to be prepared to meet the needs of disabled people generally as well as being prepared to make reasonable adjustments to meet the needs of individuals. To do this you must be continuously anticipating the needs of disabled people and the adjustments you could make in order to meet those needs. This means you should be planning improvements and identifying budgets now, so that if anyone challenges you about your access you can clearly show what you can provide, what you intend to provide and what you know you can not afford to provide.

Too much to ask?

Is it all too much to ask? No. Disabled people make up between 14% and 26% of the population, depending on the definition used (although only 4% of the disabled population are wheelchair users). And the expectations disabled people have about access and inclusion are growing all the time. It is now time that all sectors, the dance sector included, thought through the issues inclusion brings and formed a coherent response. The Dance and Drama Awards scheme has done so. It is now equipping all the schools involved in the scheme with guidance on access and inclusion, providing a specifically created day long session of disability equality training for each school and developing a number of pilot action research projects designed at bridging gaps in the sector including:

- a foundation course for disabled dancers run by CandoCo in partnership with a school
- a programme for musical theatre looking at new writing and new approaches being developed by Guilford School of Acting
- research into a programme for learning disabled dancers

In some areas, the dance sector has been quick to respond to the inclusion agenda, in others it has been a real fight to even get the subject discussed. The increased inclusion of disabled people is everyone's responsibility and now, thanks to the DDA, everyone's legal obligation. Its got a lot to do with you. So what are you going to do?

Jo Verrent is a disability consultant and equalities trainer, founder of ADA inc (arts, disability and inclusion). She is currently an advisor to the Dance and Drama Awards (DfES) and one of the trainers delivering specifically formulated disability equality training to dance and drama schools.

SECTION TWO: GETTING MORE INFORMATION

There are many sources of further information about the DDA – so it simply won't do to say that you haven't been able to find out enough about what the DDA might mean for you, your organisation or your work. Many are specific to the arts, whilst others relate to specific areas of practice, user groups and services. Some good examples include:

Action for Access, a new free resource published by Arts Council England (ACE) that explores how arts organisations can make themselves more accessible to disabled people and the practical implications for the organisations concerned. Whilst its focus is on 'organisations', it's also very relevant to individual community dance practitioners who may, through their work, be 'service providers'. Other publications from ACE include 'Disability Discrimination Act 1995 – Working towards 2004', 'Disability access: a good practice guide for the arts', 'Handbook of good practice: employing disabled people', 'Opening doors: action plan for disability arts touring'. These can be downloaded or ordered via the Information & Publications section of their website <www.artscouncil.org.uk> by calling 0845 300 6200, by textphone: 020 7973 6590 or by email: enquiries@artscouncil.org.uk

The Disability Rights Commission has produced many publications including; '2004 – what it means to you - A guide for service providers', '2004 – what it means to you - A guide for disabled people', 'Our Rights, Our Choices: Meeting the information needs of black and minority ethnic disabled people', 'How to use Easy Words and Pictures'. These can be viewed, downloaded and ordered from the Publications and Reports section of the Disability Rights Commission web site, <www.drc-gb.org>, by calling 08457 622 633, by textphone: 08457 622 644 or by email: enquiry@drc-gb.org

The **Voluntary Arts Network** (VAN) has produced some very useful briefing documents which can be downloaded from their website. These include an explanation of the Act and examples of ways in which service providers can make reasonable adjustments in order to become more accessible. Particularly recommended are: VAN Briefing 44 – ‘Disability Discrimination Act Part III - how will this affect arts organisations?’, VAN Briefing 10 – ‘Access - Good access makes life easier for everyone’ and VAN Update 33 – which focuses on European Year of Disabled People and gives a wealth of information on disability issues. See <www.voluntaryarts.org>..

Mencap have produced ‘Welcoming people with a learning disability to your venue’, which can be downloaded from their website, and also have an Accessibility Unit, offering advice and guidance on making your information accessible to people with a learning disability. See <www.mencap.org.uk>, call 020 7696 5551 or email accessibility@mencap.org.uk for more information.

Mind The Gap Theatre Company have produced ‘Never Again...’, an interactive CD Rom-based training package aimed at venue staff, particularly box office, front of house and marketing personnel, containing evidence, findings and solutions for providing access for learning disabled audience members. The CD Rom is available to buy from Mind The Gap, see <www.mind-the-gap.org.uk>, call 01274 544683 or email arts@mind-the-gap.org.uk

Learning disability organisation **Working with Words** have produced ‘Count Us In’, an information pack on how to make meetings accessible and an aid for organisations that invite people with learning disabilities to meetings to solicit their opinions. To request a pack, please send your full contact information to <workingwithwords@onetel.net.uk>

Access All Areas - disability and youth arts, by Michelle Taylor in partnership with Dada-South offers a set of guidelines to compliment the Artsplan course of the same name. Exploring equal opportunities within youth arts these guidelines focus on ways in which barriers to participation can be removed for young disabled people, highlighting responsibilities in the light of legislation under the DDA. These cost £7.50 and can be ordered online at <www.artswork.org.uk>.

Website accessibility is also covered by the DDA. Information about this can be found at <www.w3c.org> and <www.bobby.watchfire.com>. Your website developer should also be able to help you with this.

SECTION THREE: WHAT SHOULD I DO NEXT?

Don’t panic, but do take action. Don’t ignore the fact that the Disability Discrimination Act means that you are probably now obliged to make some changes to the way you work. These changes need not necessarily be costly: much of the DDA can be implemented by being informed about and aware of the issues at hand. Accessibility is a serious matter – and now subject to law: it’s never too late to make changes for the better.

Find out more: There are a number of organisations which can offer practical advice, and publications that can help you navigate through the issues that affect you, your work or your organisation. Information about the DDA is very often free, and learning resources to help increase accessibility are a good investment.

We suggest that an excellent first step is to obtain a copy of Action for Access – available free of charge from Arts Council England (contact details above). This includes a self-audit and practical advice for producing a Disability Action Plan. It also lists low cost suggestions of actions you can implement straight away.

Foundation for Community Dance
Cathedral Chambers
2 Peacock Lane
Leicester
LE1 5PX

Tel: 0116 251 0516
Fax: 0116 251 0517

Email: info@communitydance.org.uk
Web: www.communitydance.org.uk

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What's it got to do with us? By Jo Verrent, first published in Dance UK News Issue 54, Autumn 2004, reproduced with the kind permission of Dance UK.

This information is available in alternative formats on request

Disclaimer:

Whilst every effort has been made to ensure this information sheet accurate, it is produced for reference only and is not intended as either a definitive guide to the DDA or as a replacement for specific advice from suitably qualified specialists as each reader's particular situation requires. We have included contact details for obtaining further information and advice, but these are suggestions only and the Foundation for Community Dance cannot take any responsibility for the acts of omissions of any third party mentioned in this publication. Any contract made between any third party and the reader shall not involve the Foundation for Community Dance unless expressly stated in writing by the aforementioned. Neither the authors, staff and/or directors of the Foundation for Community Dance make any representation, expressed or implied, with regard to the accuracy of information contained in this publication, and cannot accept any legal responsibility for any errors or omissions that may have been made, nor any harm, however caused, which results from the information put forward.

Potential
dance and disabled people



Equal



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UK