

Disability Justice Project  
Discrimination guide

## **Physical barriers**

## About this guide

We experience discrimination on a daily basis. Many of us don't always realise that what is happening is against the law, when others feel unable to do anything about it.

That's why we put this guide together.

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This guide covers what to do if you have experienced difficulties with physical access, getting into buildings, lack of accessible toilets. Please refer to our other guides for support when you:



[have difficulties using public transport or taxis](#)



[have difficulties getting information in the format you need](#)



[cannot get adaptations made to your home](#)



[have difficulties accessing public engagement and consultations](#)

These guides look at specific problems Disabled people experience. They will help you to identify whether you have experienced discrimination and will take you through the process of challenging discrimination step by step. You will find template letters you can use, practical tips on collecting evidence and sources for further information and advice.

The law has prohibited discrimination against Disabled people for more than 20 years, and yet we still face many barriers and sometimes find it impossible to access services. This is largely because it is left up to us to enforce this law. By taking action to combat discrimination, you aren't only making changes for yourself: you are improving things for other Disabled people.



## Physical barriers

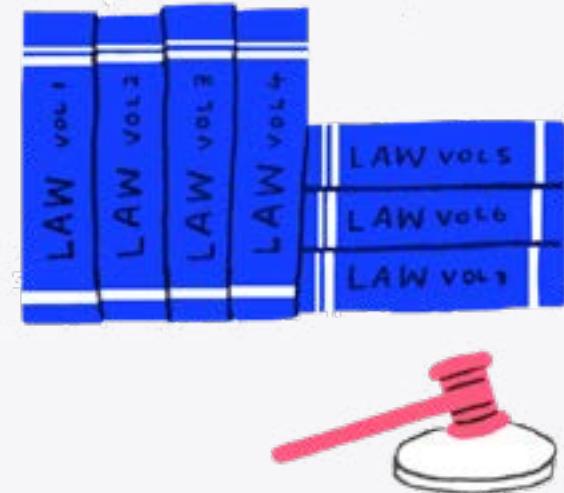
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## What the law says

Public bodies and organisations that provide goods and services are required by the Equality Act 2010 to take reasonable steps to remove physical barriers that Disabled people might experience when accessing their services.



## What the law says

Physical barriers can include things like:

- steps
- stairways
- kerbs
- exterior surfaces and paving
- parking areas
- building entrances and exits (including emergency escape routes)
- internal and external doors and gates
- toilets and washing facilities
- public facilities (such as telephones, counters or service desks)
- lighting and ventilation
- lifts and escalators
- floor coverings
- signs
- furniture
- temporary or movable items (such as equipment and display racks)

Service providers and public bodies are required to:

- Get rid of the physical feature that is a barrier. For example: removing furniture that is blocking the way.
- Change physical infrastructure so that there are no barriers. For example: widening the doors, removing walls, installing an accessible toilet or a changing places toilet, or changing the way seats are arranged in a theatre.
- Provide a reasonable means of avoiding the physical barrier. For example: building a ramp or installing a stair lift.

If it is not possible or reasonable to do any of the above, organisations have to think about whether there is any auxiliary aid or service they could provide to remove the physical barrier. This could include, for example, a portable ramp or assistance with guiding.

The service providers or public bodies should always ensure Disabled people can get the same service as everybody else.

When it is impossible to remove a physical barrier or find reasonable means of avoiding it, a service provider could consider having an alternative method of making a service available to Disabled people. But this alternative method should not cause people distress or inconvenience. For example, serving Disabled customers outside the shop instead of ensuring they can get in won't necessarily be a good alternative.

Any equipment or adjustments have to be in working order and available to use. If the lift is not working or the ramp is blocked, the organisation may be in breach of the Equality Act. Likewise, practices which create additional barriers, for example a locked accessible toilet or one used as a storage facility will in most cases be in breach of the Equality Act.

Service providers and public bodies are required to think about the physical barriers that may prevent Disabled people from accessing their services. They cannot wait for a Disabled person to walk through the door before starting to do this. Adjustments should work for you. If a company has already made some adjustments which do not work for you, they still have to consider what reasonable steps they can take to make an adjustment that is good for you.

If physical barriers appear and service providers cannot take reasonable steps to remove them in time, they at least should make Disabled customers aware of this. For example: if you booked an appointment with a dentist whose office is located on the second floor, it would be reasonable for the dentist to contact you to rearrange the appointment if the lift has broken.

Adjustments that are made should encourage your independence and respect your dignity; they should not

make you feel uncomfortable. Offering to push a person who uses a wheelchair inside the building instead of providing a portable ramp will not be an adjustment that encourages independence or respects dignity.

Sometimes service providers can justify their inaction by saying that they are restricted by the conditions of their lease. In those circumstances, it is always worth checking what steps they took to obtain consent from their landlord to make adaptations. If they failed to send a written request to the landlord, they cannot rely on the conditions of the lease to justify their inaction. Even in a situation when a landlord does not consent to the change of physical infrastructure, the service provider should think where there is anything they could do that does not require consent.

You have most likely been discriminated against if you:

- could not access the building
- could not use toilet facilities, changing rooms or washing facilities
- could not find your way because the signage was poor
- had a sensory overload because the lighting was too bright.

## **What you can do if things go wrong**

If you could not access a service like everybody else because of a physical barrier, you can make a complaint to prevent the same situation from happening again. Your complaint could potentially lead to changes that will help many other Disabled people.

In many cases the company will be in breach of the Equality Act and you will be able to take legal action against them and request compensation for the discrimination you have experienced.

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This section covers:



[The differences between complaints and legal action](#)



[Collecting evidence](#)



[How to make a complaint](#)



[Taking legal action](#)

# Differences between complaints and legal action

	<b>Complaint</b>	<b>Legal action</b>
<b>Issues you can raise</b>	Any issues relating to a specific incident or problems experienced over a long period of time	A specific incident when you think the company did not follow the law
<b>Potential outcomes</b>	<ul style="list-style-type: none"> <li>• An apology</li> <li>• A commitment to improve service</li> <li>• An explanation of why things went wrong</li> </ul>	<ul style="list-style-type: none"> <li>• An order that you were discriminated against and that the defendant should not do it again</li> <li>• A monetary compensation</li> <li>• An order that defendant changes its provision (an injunction)</li> </ul>
<b>Risks</b>	No financial risk	Potential financial risks, but there are ways to minimise them
<b>Process</b>	Company's complaints procedure	Civil Procedure Rules
<b>Time</b>	No time limit, but as soon as possible	Within six months, but as soon as possible

It is always worth making a complaint regardless of whether you are thinking of taking legal action or not. Good companies that care about their customers monitor complaints and use them to make improvements.

We have created template letters, which explain to the company how their actions breached the Equality Act, which you can use. Your complaint could help the company realise that they are acting unlawfully.

### Complaint letters

If you are not sure whether you have a strong case for legal action, it is worth making a complaint first. You may get a better understanding of what the company's position is. They are likely to explain to you why things happened the way they did. It may also help sort out the problem without having to take legal action. If you have already started legal action, you usually would not be able to raise the same issue through a complaints process.



Civil Legal Advice will put you in touch with lawyers who can help you  
[www.gov.uk/civil-legal-advice](http://www.gov.uk/civil-legal-advice)



[Download our template complaint letters](#)

### **Letters before action**

However, you don't always have to make a complaint before starting legal action. You can send a 'letter before action' (the first step in a possible court case) instead of making a complaint. This may be taken more seriously and the company is likely to respond by giving you the information you need to decide whether or not to continue with legal action. The purpose of a letter before action is different from a complaint letter; not only are you letting the company know what went wrong, it also indicates that you will be prepared to go to court if they don't make things right. Some people on low incomes or benefits can get free legal advice to help you write your letter before action. There is no financial risk in sending a letter before action.

## Collecting evidence

It is important to collect evidence if you decide to take legal action or make a complaint. Collect evidence on the spot, make a note of the date and time, and if possible take pictures or make a video on your phone.

If you were unable to use a service, wasted time, did not have the same choices as others, could not understand what was going on, or felt upset about how you were treated, it can be important to have noted this down or recorded something on your phone so that you don't forget. It also helps you to explain to the company or organisation, or a judge if your case goes to court, what it feels like to be discriminated against in this way.

If you are dealing with a member of staff ask for their name. If there are people who witnessed this situation and are willing to support you in challenging this, make sure to get their contact details.

You have the right to get a copy of all the information the organisation has on record connected to your name or your image. This includes CCTV footage and records of phone calls you made. To help you collect evidence, you can use this right to get a copy of this information.

In your complaint letter, you can also ask the organisation to send you their policies, procedures, and details of the training their staff received.



Useful information about your rights under the data protection legislation and on how to make a Subject Access Request, including a template letter you can use:  
<https://ico.org.uk/your-data-matters/your-right-of-access>

# How to make a complaint

1. Find out who to complain to
2. Write a complaint letter
3. Ask for the evidence you need
4. Chase for a response
5. Consider further action

## 1: Find out who to complain to

It is important to identify the right organisation to complain to. You need to send your complaint to the organisation that provides the service you could not access. Each organisation should have its own complaints procedure, which will tell you where to send your complaint to and how long it should take to process it.

## 2: Write a complaint letter

You can use our template letter to write a complaint. Try to do it as soon as possible.

## 3: Ask for the evidence you need

You can do it in your complaint letter or separately. For example, there may be CCTV footage of you trying to enter the building.



[Download our template complaint letters](#)

## **4: Chase for a response**

If you do not get a response within the time stated in the complaints procedure or within the time you indicated in your complaint letter you will need to chase for a response. You can do it by sending an email or phoning.

There may be different scenarios to follow:

- You will get a response and you are happy with it
- The company wants to negotiate a solution with you
- You get a response and you are not happy with it
- You do not get a response at all

## **5: Consider further action**

If you are not happy with the response or you do not get a response, you could consider legal action.

If you got a response, it is very likely that there will be some explanation of why things happened the way they did. Read it and think whether the reasons given look like good reasons to you. Remember the Equality Act requires organisations to anticipate potential needs of Disabled people and do what is reasonable to meet those needs. Look at our [How to deal with most common excuses document](#) to help you decide what to do next.



[Template chasing emails](#)

## Taking legal action

By legal action here we mean starting a discrimination claim in the County Court. You can do this on your own or you can find a lawyer to represent you.

If you are on means tested benefits, or your income is low, you may be able to get government funding to pay for your legal representation (legal aid). Some solicitors may be willing to take your case on a “no win no fee” basis.

If you have a lawyer, they will usually draft the documents for you and will guide you through the process.



If you decide to take legal action yourself, below are some tips, templates of documents and links to resources that might be helpful.

- [Disability Justice Project guide to legal aid](#)
- [Doug Paulley's disability attitude re-adjustment tool](#)
- [Judiciary.gov.uk guides for litigants in person](#)
- [Justice.gov.uk court forms](#)
- [Citizens' Advice taking court action](#)



If you think you will need legal advice and representation, get in touch with our Disability Justice Project or [see here](#) for the list of organisations to contact.

## Letters

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Writing a complaint letter is the first step you will take in starting a legal action. We have made several templates you can use to write letters.

[See here](#) if you are not sure whether you should write a complaint letter or a letter before action.

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This section covers:



If you were unable to enter a building due to lack of physical access



If an accessible toilet was locked

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### Letter types

Word template



Online form



### Things to remember

- [Read what the law says.](#)

Identify correctly who to send the letter to. You need to send your complaint to the organisation that provides the service you could not access. Each organisation should have its own complaints procedure, which will tell you where to send your complaint to.

The time limit for starting a discrimination case in court is six months, so send those letters as soon as you can.

### If you were unable to enter a building due to lack of physical access

Complaint letter

Letter before action

This template can also be used for any other case when an existing physical barrier prevented you from accessing or using a service like everybody else. This can include cases when the signage was not accessible, there was no tactile paving, or when there are entry phones or lifts that only operate through voice.

### If an accessible toilet was locked

Complaint letter

Letter before action

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