

ISSUES REGARDING AMBULANT DISABLED FANS AND PAS/CARERS



The Premier League has received a number of questions about ambulant disabled fans as well as the issue of free tickets for PAs/carers. This guidance has been produced to answer those queries and the legislative context is provided for clarity.

Equality Act 2010

The Equality Act 2010 replaced all previous equality legislation including the Disability Discrimination Act. It simplified the law, removed inconsistencies and made the law easier for people to understand and comply with.

The Equality and Human Rights Commission website www.equalityhumanrights.com has more information on the Equality Act and its implications, including specific guidance for service providers which can be accessed by following this link <http://www.equalityhumanrights.com/advice-and-guidance/service-providers-guidance/>

Under the Equality Act 2010 the forms of discrimination that are prohibited are:

- You must not treat a person worse because of one or more of their protected characteristics, this is called **direct discrimination**.
For example - A club will not admit someone to the ground because of their disability.
- You must not do something to someone which has (or would have) a worse impact on them and on other people who share a particular protected characteristic than on people who do not share that characteristic. Unless you can show that what you have done is **objectively justified**, this will be what is called **indirect discrimination**. 'Doing something' can include making a decision, or applying a rule or way of doing things.
For example - A club has a policy not to accept calls from customers through a third party. This could amount to indirect discrimination against a deaf person who may use a support worker to call the club. Unless the club can **objectively justify** using the rule, this will be indirect discrimination.
- You must not treat a disabled person **unfavourably** because of something connected to their disability where you cannot show that what you are doing is **objectively justified**. This only applies if you know or could **reasonably** have been expected to know that the person is a disabled person. This is called discrimination arising from disability.
For example - A club shop has a 'no dogs' rule. If the shop bars a disabled person who uses an assistance dog, not because of their disability but because they have a dog with them, this would be discrimination arising from disability unless the shop can objectively justify what it has done.
- You must not treat a person worse than someone else because they are **associated with** a person who has a protected characteristic.
For example - A club restaurant refuses to serve a customer who has a disabled child with them, but serves other parents who have their children with them.
- You must not treat a person worse because you incorrectly think they have a protected characteristic (perception).
For example - A member of staff in a club bar tells a woman that they will not serve her because they think she has a learning disability. It is likely the woman has been unlawfully discriminated against because of disability, even though she is not disabled.
- You must not treat a person badly or victimise them because they have complained about discrimination or helped someone else complain or done anything to uphold their own or someone else's equality law rights.

For example - A customer complains that a member of staff in a cafe told her she was not allowed to bring her disabled child into the cafe. Because she has complained, the cafe tells her she is barred altogether. This is almost certainly victimisation.

- You must not harass a person.
For example - A steward is verbally abusive to a customer in relation to their disability.

Service providers

A club is a service provider as defined by the Equality Act 2010 and all service providers have a responsibility under the law to treat their service users fairly. You are defined as a service provider if you provide goods, facilities or services to the general public or section of it, regardless of whether these are free or paid for.

Duty to make reasonable adjustments

Equality law recognises that bringing about equality for disabled people may mean changing the way in which services are delivered, providing extra equipment and/or the removal of physical barriers. This is the duty to make reasonable adjustments.

This duty aims to make sure that a disabled person can use a service as close as it is reasonably possible to get to the standard usually offered to non-disabled people. When the duty arises, you are under a positive and proactive duty to take steps to remove or prevent these obstacles by

1. changing provisions, criteria or practices; (e.g. changing rules, policies or the way things are done, whether unwritten or written; being more flexible about where or how the service is provided; allowing a range of documents for proof of identity; providing various means for how people can communicate with the club – not just in writing; provide information in accessible formats)
2. removing, altering or providing a reasonable alternative means of avoiding barriers created by physical features; (providing a reasonable alternative method of making the service available should be your last consideration, as an alternative service may not give disabled people a similar level of service.)
3. providing extra aids and services - auxiliary aids, to make it easier for disabled people to make use of your services. (e.g. providing extra equipment or providing a different, or alternative service. Technological solutions may be useful in overcoming communication barriers, but sometimes a person offering assistance will be what is needed.)

If, as a service provider, you find there are barriers to disabled people accessing your services in the way you do things, then you must consider making changes. If those adjustments are reasonable for you and your organisation to make, then you must make them.

The duty is 'anticipatory'. This means you cannot wait until a disabled person wants to use your services, but must think in advance (and on an ongoing basis) about what disabled people with a range of impairments might reasonably need, such as people who have a visual impairment, a hearing impairment, a mobility impairment or a learning disability.

Many of the adjustments you can make will not be particularly expensive, and you are not required to do more than it is reasonable for you to do. What is reasonable for you to do depends, among other factors, on the size and nature of your organisation and the nature of the goods, facilities or services you provide.

If, however, a disabled person can show that there were barriers you should have identified and reasonable adjustments you could have made, they can bring a claim against you in court, and you may be ordered to pay them compensation as well as make the reasonable adjustments.

As well as being something you are required by equality law to do, making reasonable adjustments will help a wider range of people use your services.

1. Access for ambulant disabled fans (i.e. those who do not require special seating arrangements).

'Ambulant disabled fans' means disabled fans whose impairment does not prevent (with support and assistance if necessary) them from sitting in any area of the ground.

Clubs should not restrict the numbers of tickets available for disabled fans at matches. The only exception to this is where someone's impairment means that they cannot access certain areas of a ground and there are (for example) a limited number of wheelchair accessible spaces available. Guidance on the number of wheelchair spaces you should provide is in the Accessible Stadia Guide.

In the case of ambulant disabled fans clubs need to make sure that they are not limiting the number of ambulant disabled fans at matches (either alone or with PAs/carers); clubs should sell any available match tickets to ambulant disabled fans who seek to buy them (whether in advance or on the day of a match).

Refusing to sell an ambulant disabled fan a ticket simply because they are disabled would be likely to be classed as direct discrimination ('on the grounds of their disability') and therefore unlawful.

Ambulant disabled fans may require personal assistance in the same way that other disabled fans do (see FAQ number 3). It is very likely that limiting the number of ambulant disabled fans who need to bring a PA/carer would also be unlawful discrimination. This limit might not be direct discrimination but it would amount to discrimination arising from disability and so, unless justified, would be unlawful.

Objective justification

The test of whether something can be objectively justified is whether the way of achieving it is appropriate and necessary – expressed as a 'proportionate means of achieving a legitimate aim'.

The probable aim of a club restricting the number of ambulant disabled fans with PAs/carers would be to restrict the number of seats being occupied by PAs/carers who are not paying, and thus to maximise profits. The club should not pre-determine that a particular match will be a sell-out and use that rationale to then restrict the number of ambulant disabled seats with free PA/carer seats.

There is no guarantee that a Court would accept that a purely financial motive would be a 'legitimate aim', particularly for a Premier League football club with a high turnover. Given the likely numbers of seats involved, it is highly unlikely that the amount of money involved would be sufficient to show that it was 'proportionate' to exclude a number of disabled people in pursuit of that aim.

2. Seating for ambulant disabled fans

Ambulant disabled fans should be able to sit anywhere in the stadium (within the home or away section, as appropriate). Some fans may require extra leg room or to be on the end of a row, but many ambulant disabled people do not require any special seating, and so clubs should not restrict the seating available to them. Segregation of disabled fans without any reasonable justification should never happen.

If you do put any limitations in place, the lawfulness of restricting where an ambulant disabled fan may sit (within the home or away section) will depend on why you have made this decision or policy. If the reason is simply that the person is disabled, then that is likely to be direct discrimination and unlawful. If the reason is because of something arising in consequence of their disability, then it would need to be justified. It is possible that there could be legitimate reasons for limiting fans with a particular impairment to particular areas of the stadium or particular seats, for example limiting those with some mobility difficulties to seats at or near the end of rows to ensure that they can be evacuated if necessary.

Any restriction on where ambulant disabled fans may sit should be considered carefully to ensure that it is not being imposed simply because a person is disabled, but because of something arising in consequence of their disability, and that this is appropriate and necessary.

3. Offering free tickets to PAs/carers of disabled fans

Many disabled people already access your service on their own without any support from PAs/carers or club staff. Some disabled people, however, may need extra assistance in order to fully use a service as close as it is reasonably possible to get to the standard that you offer to non-disabled people. Disabled people should be able to access the full range of match-day services.

Some examples of the support a disabled person may need to access your service fully include:

- Personal care eg support to use the toilet facilities
- Getting refreshments
- Being pushed round the stadium in a wheelchair
- Being driven to the match
- Being helped getting round the stadium
- Medical tasks eg being given injections
- Support with shopping/buying souvenirs/programmes.

Clubs are entitled to ask for confirmation that a disabled person requires a PA/carer in order to access the service being provided. Where a disabled person requires the support of a PA/carer the Premier League recommends that the club should admit both the disabled fan and their PA/carer, and charge only the price of admission for the disabled person, on condition that the PA/carer provides the necessary support to the disabled person. This is likely to be a reasonable adjustment that the club should make to permit the disabled person to access the services they provide.

This does not mean that all disabled people should have two tickets for the price of one. It is only if a disabled fan requires the additional support of a PA/carer to access the services that are provided at a match that this needs to be done. Where a disabled person would be able to access the services without additional support, then clubs would be entitled to charge anyone attending with them as they would any other fan.

Charging a disabled supporter and their PA/carer more than the full price of one ticket for the disabled supporter (including any concession for which they are eligible) would be likely to be unlawful. Where a disabled person requires personal support in order to attend a match, if the club do seek to charge for a PA and the disabled person refuses, the club would have to make reasonable adjustments – in particular the club would have to provide the necessary support to allow the disabled person to access the services they provide.

Clubs cannot force disabled fans who require assistance to be accompanied by a PA/carer, although they can encourage this. If a disabled fan decides not to bring a PA/carer, then the club cannot refuse to admit them or provide them with any service, unless there are valid reasons for doing so. The club would have to make reasonable adjustments themselves and provide the necessary support.

It is sometimes proposed by disabled people that children act as a PA/carer. Providing that the child is indeed providing assistance to the disabled person to allow them to attend, the club should permit the child to act as a PA/carer. Accordingly, clubs should not seek to impose a minimum age for PAs/carers. Equally, other disabled people may act as PAs/carers.

Where the disabled person is a young child, and their PA/carer is their parent, it is unlikely to be necessary for clubs to allow the adult to attend for free as part of the reasonable adjustments duty, if they require all children (including those who are not disabled) to be accompanied by an adult. For example, if the club's policy requires all children under 12 to be accompanied by an adult, then charging both a disabled child and their parent would not be treating them less favourably than non-disabled children.

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