

DCS

Disability Conciliation Service



A PATHWAY TO EQUALITY



The first three years of the national
Disability Conciliation Service



DCS is funded by the DRC

 Disability Rights Commission

DCS is a service of Mediation UK

 **Mediation UK**
Representing and supporting mediation in the community

May 2004

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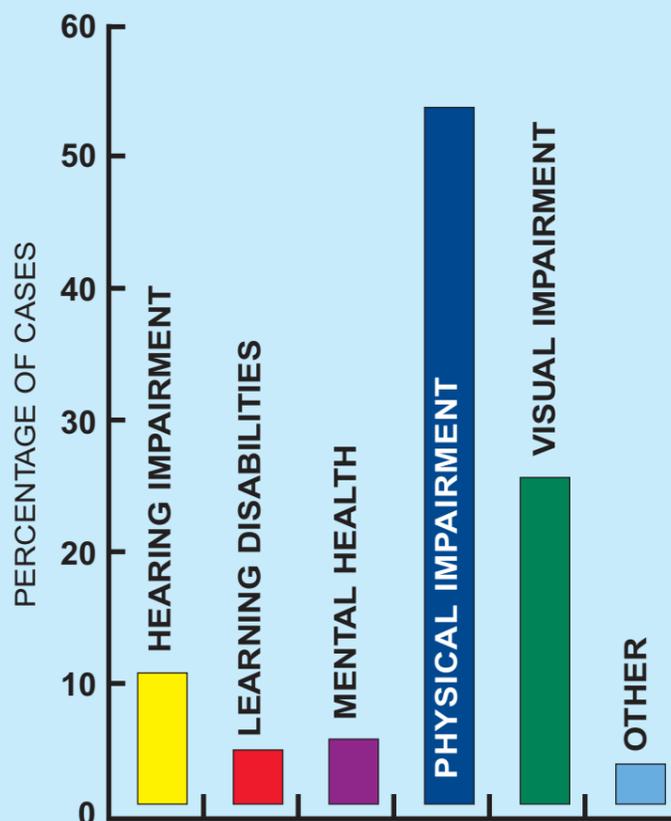


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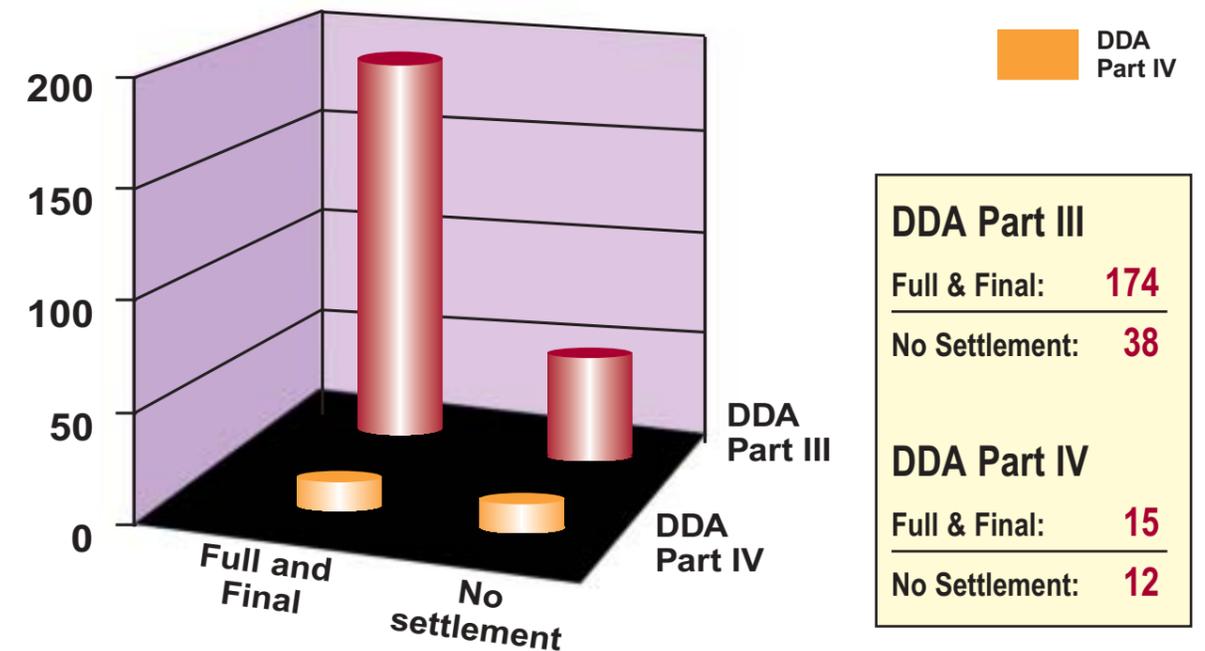
DCS Facts and Figures

Since opening its doors in March 2001, DCS has received over 330 referrals and has facilitated the successful resolution of disputes between disabled people and providers of Goods & Services (DDA Part III) and Education (DDA Part IV) in 79% of all cases.

Breakdown of DCS users

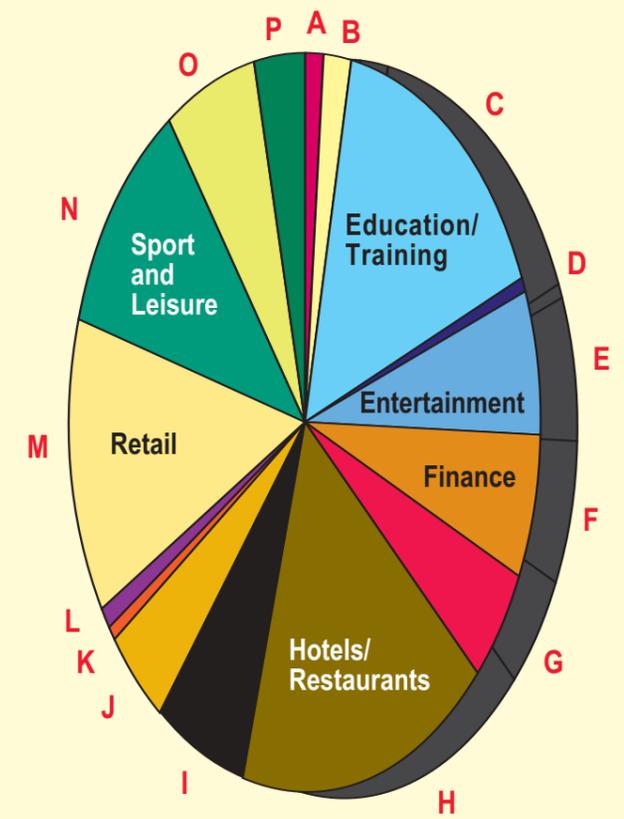


DCS Case Settlement Rates



Cases by Industry Sector

Letter	Industry Sector	Number of Cases
A	Catering	4
B	Communication	6
C	Education/training	49
D	Utilities	2
E	Entertainment	20
F	Finance	20
G	Health	16
H	Hotels/ Restaurants	55
I	Local Govt	20
J	Public Administration	14
K	Real Estate/Renting	2
L	Religion	3
M	Retail	41
N	Sport and Leisure	34
O	Transport	20
P	Other	11



About Disability Conciliation

 The national **Disability Conciliation Service (DCS)** provides an opportunity to resolve complaints relating to the Disability Discrimination Act 1995 (DDA) outside of Court. Dealing with DDA Part III (Goods and Services) since March 2001 and DDA Part IV (Education) since September 2003, we have now handled over 300 cases. This report provides an overview of the service and its achievements, describes the context we work in, and looks ahead to the future.

 The DCS is an independent service provided by **Mediation UK**, a national voluntary organisation working to develop constructive means of resolving conflicts in communities. The DCS is funded by **The Disability Rights Commission (DRC)**.



What is Disability Conciliation?

Disability Conciliation is an opportunity for disabled people and service providers to resolve cases brought under the DDA. It is a “win/win” situation where parties come together in a one-off meeting to find their own solutions.

What are the benefits of using conciliation?

Using the DCS offers immediate and longer-term benefits to both parties. Conciliation:

- ➔ **Is free of charge to both parties.**
- ➔ **Takes less time than a court case.** Conciliation is completed on average within eight weeks.
- ➔ **Is a confidential process.** Service providers who are prepared to make changes and take responsibility for their actions can avoid unwelcome publicity and use conciliation to improve their policies and practices. In many cases the experience is so positive that both parties are happy for the case to be publicised. We only do this if both parties agree.
- ➔ **Enables negotiated outcomes between the parties.** Negotiated outcomes are more likely to work in the best interests of both parties than imposed decisions - especially where preserving relationships is important.
- ➔ **Leads to real social change.** Service providers who lose in court need only make the changes the court specifies and then only in relation to a particular case. Service providers who engage in conciliation often make real and lasting changes to their policies and practices across all their activities.



What is the process and when do we get involved?

Cases come to the DCS from the Disability Rights Commission. In every case there is an alleged breach of the DDA, Part III or Part IV.

Once both parties have agreed to conciliate, the DCS works intensively with both parties in preparation for the conciliation meeting. We make sure that everyone understands the process and the significance of the DDA. We work with the disabled person (the ‘Complainant’) to identify what they want from conciliation and we work with the service provider (the ‘Respondent’) to make sure they are well informed and ready for conciliation.

Once the parties are ready the case is passed to one of the DCS’s team of 45 expert conciliators. The conciliator’s role is to manage and focus the meeting towards a resolution. At the end of the meeting, the Complainant is asked whether any agreements reached represent a ‘Full and Final Settlement’ of their claim under the DDA. If so they commit to taking no further action against the Respondent. If they choose ‘No Settlement’ they keep their option to pursue the matter in court.

A DCS Case Success

Ms D was refused a place on a nursing course because of her history of mental illness. At conciliation:

- Ms D was offered a place on the next course.
- An apology was given for the rejection and for the subsequent handling of it.
- The college agreed to involve specialist mental health services in the development of new policies to prevent this from happening to others. Ms D was asked if she would participate in this work and agreed to do so.
- The college paid Ms D compensation of £1,000 for injury to feelings.

What the users say...

DCS asks all users (Complainants and Respondents alike) for feedback on their experience of conciliation and of using the service. In our most recent survey:

- ➔ 78% of all users said that conciliation met or exceeded their expectations
- ➔ 93% of all users said that they would recommend using the DCS to others

DCS has commissioned **Ricability**, the nationally renowned independent consumer research organisation, to carry out a detailed evaluation of the effectiveness of the service. The research is ongoing and involves 200 users. Findings are expected later in 2004 and will be available through the DCS website on www.dcs-gb.net. An interim report from Ricability, in April 2004, involving 54 users revealed that:

- ➔ "Both parties were asked how satisfied they were with the Disability Conciliation Service, taking everything into account. There was a high level of satisfaction amongst both groups. 77% of Complainants and 96% of Respondents reported that they were extremely or fairly satisfied."
- ➔ "DCS conciliators were highly praised for their calm and professional manner, and for their unbiased approach. Some people also commended their patience. Very few criticisms of the conciliators were made by either party."

“ We found the process and meeting very helpful in looking at areas where our services were not meeting customers' needs and expectations ”
A Respondent



Many large companies, public bodies and education providers have effected changes as a direct result of the conciliation process. Examples include:

- **City Centre Restaurants (The Restaurant Group plc)** is implementing a company-wide training programme and has ensured that 'Assistance Dogs Welcome' stickers appear on restaurant entrances. The Group includes Frankie & Benny's, Caffe Uno, Garfunkels, Chiquito and Est..Est..Est brands.
- **West Dorset District Council** has undertaken a process to ensure improvement of access to facilities for disabled people within the council car parks and other services.
- **JJB Sports and Leisure plc** is implementing staff training and looking into the provision of auxiliary aids.
- **The University of Leicester** has expanded its understanding of 'disability'. It has implemented procedures to ensure that a proactive approach is taken, particularly in the area of mental health.

“ This is the first time, after all we have been through, that we will finally see a change. They (providers of education) will have to take account of disabled people's rights now. ”

A Complainant



Conciliation or Court: Where does conciliation fit in?

When a disabled person alleges they have been discriminated against under the DDA they have six months from the date of the incident in which to lodge a case in court. Both parties agreeing to conciliation adds a further two months to this period. The extra time means that if conciliation does not resolve the matter, or if the service provider pulls out, the disabled person still has time to consider taking the case through the courts. This means that conciliation is an ideal 'first resort'. There are no disadvantages to either party and the potential benefits are enormous.

Increasingly, and in recognition of the appropriateness of conciliation, County Court judges are expecting Complainants to first attempt a settlement of their case through conciliation before bringing a case to court. In several recent cases, judges have ordered that conciliation is used and that a court hearing will only be allowed if conciliation proves unsuccessful.

An unresolved DCS case that went on to court

Nicola Cockburn, a blind student and guide dog user, tried to book a short break at a guesthouse in Somerset, only to be told that there was no exception to their 'no dogs' rule. Even after she explained she was blind the owner still refused to take her booking.



Nicola took her case to the Disability Rights Commission and decided to use the Disability Conciliation Service. The guesthouse owner agreed to participate in conciliation and the case proceeded to a meeting in the summer of 2003. At the end of the meeting Nicola felt the guesthouse had not taken her case seriously and she decided that the case was not settled.

After the meeting Nicola and the DCS Conciliation Coordinator explored her options and Nicola took a case against the guesthouse at the County Court, where she won and received £1,000 compensation. Nicola said afterwards: "The most annoying thing is that I have never had an apology – even after the ruling."

Conciliation costs

Overall conciliation cases cost less than court cases. The average 'net case-specific cost' of a DCS conciliation case in 2003 was £278. At present there are no figures available, which enable a direct comparison of a DDA case being taken through the courts.

However, recent research for the Scottish Executive has identified that the 'net-case specific costs' of 50 legal cases involving neighbour disputes and anti-social behaviour taken to the Sheriffs court (the Scottish equivalent of the County Court in England and Wales) was £3,546 per case. This comparison is only indicative.

Source: Scottish Executive research findings no. 167/2003
Note: Net case-specific costs are the cost of that case alone and exclude associated administration costs.

The character of conciliation



Disability Conciliation has its foundations firmly in the field of **Alternative Dispute Resolution (ADR)** and in community mediation in particular. The main objective of ADR is to support those in dispute to achieve a resolution that is decided by and acceptable to both parties. This is of course very different to the 'resolutions' decided by a judge within the court setting – where an external judgement is made and, usually, a financial payment ordered.



There are various kinds of ADR but they have some broad ideas in common:

- ➔ Collaborative problem solving between those in dispute, reaching a 'win/win' situation which is acceptable to all
- ➔ A focus on the future, with emphasis on rebuilding relationships rather than apportioning blame for past events
- ➔ A belief that acknowledging feelings as well as facts allows participants to let go of their anger and move forward



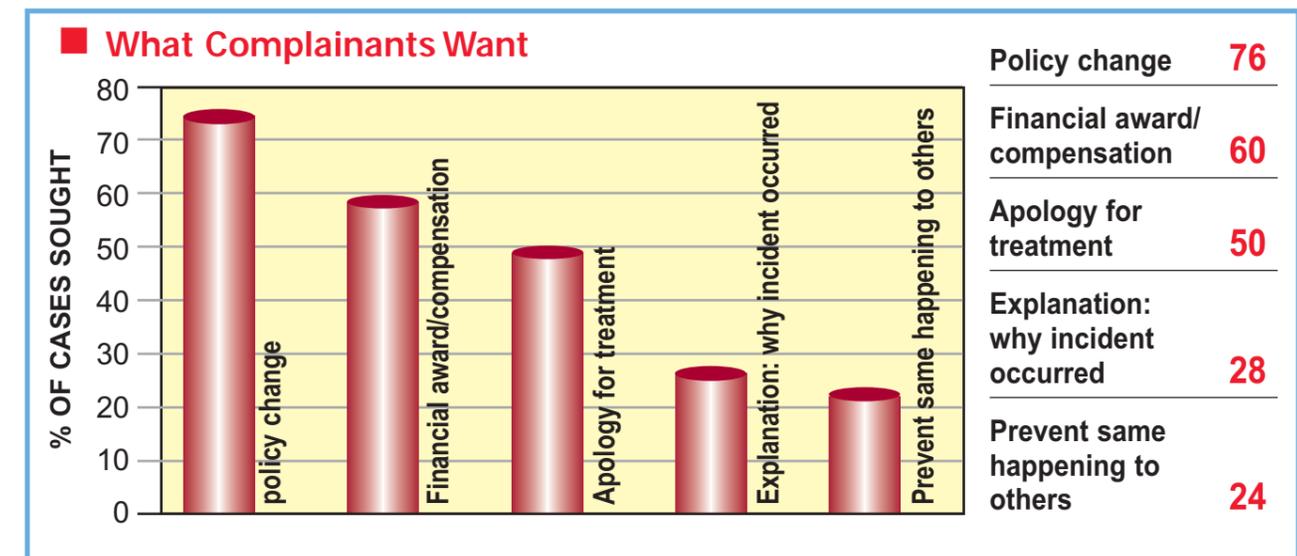
DCS 'Rights Based Conciliation'

DCS applies these ideas to the specific context of the DDA in a process we are increasingly describing as 'rights based conciliation'. Whilst conciliation does not involve compulsion, it is an assertive process, which works in the interests of both parties. It enables people to exercise the same rights as they would in court but through a less rigid and more widely focussed approach.

We ask parties in conciliation to use the concepts of the DDA (such as 'reasonable adjustment' and 'less favourable treatment') to try and understand what has happened, and to find acceptable ways forwards. Only the parties in conciliation decide whether any 'wrongdoing' has occurred and, if so, how it can be made right.

What Do People Want From Conciliation?

- The most commonly sought agreement is that the Respondent will commit to changing its policies in a particular area in order to prevent the same situation happening again. A policy change is sought in over 75% of all cases.

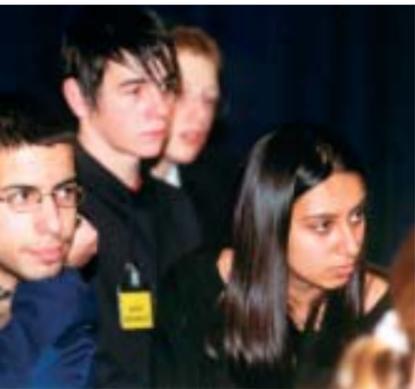


- Interestingly, Complainants seek financial compensation from the Respondent in only 60% of conciliation cases. Nearly half the disabled people coming to conciliation are looking for something else altogether. Many Respondents express surprise at this because they often assume that compensation is all that people want from the process!
- For many Complainants the main purpose of conciliation is to explain directly to the Respondent what happened to them and to get a full unconditional apology – sought in 50% of all cases.
- In many cases the disabled person still does not know prior to conciliation why the original incident happened. In 28% of cases they want the Respondent to explain directly to them why and how it happened.
- It is also important to note that many disabled people consider themselves to be part of the disability 'movement' or 'community'. In 24% of cases Complainants express a determination to use conciliation "to prevent the same thing happening to other disabled people."

Complainants decide whether their case is settled based on the agreements reached in conciliation. Some Complainants decide that the agreements reached are not enough for them to feel their case is settled. Others may consider the case settled so long as agreement is reached on their key issues.

‘A very valuable service. I believe I gained a great deal more in terms of knowledge and experience than I would have, had the case gone to court. Thank you.’

A Respondent



DCS and Accessibility

DCS works extremely hard to meet everyone's needs – in accessibility, communication, support and empowerment. We ask people what they need and make no assumptions. We correspond and converse with people according to their individual needs.

Our conciliations are flexible enough to be adapted to any circumstance and we pride ourselves on our creative approach. Meetings are always arranged as close to the Complainant's home as possible. We also consider people's method of transport. Venues are neutral and accessible to those using them.

Sometimes a face-to-face meeting is not possible. In these cases conciliations happen by telephone conferencing, email and fax. We are currently piloting a new fully accessible web-based, real time 'Conciliation Zone'. This will make conciliation even more accessible.

Where it is the only option, we can arrange conciliations in people's homes. We have even held meetings in prisons. BSL Interpreters, lip speakers and palantypists are provided so that everyone can fully participate in a face-to-face meeting. We arrange language interpreters for those whose first language is not English. We also work with advocates.

We support young disabled people to participate fully in the process. In two cases young people only initially agreed to conciliation on condition that they did not have to speak but actually went on to lead their own conciliation meetings voluntarily.

‘ I wouldn't have been able to solve my problem without the DCS. Phone conferencing was essential to allow me to access conciliation. ’

A Complainant



A DCS Case Success

After travelling on a coach journey to a zoo, Mrs A, who has Cerebral Palsy, was refused entry on account of her assistance dog. She was then left to phone a family member to collect her and had to wait over two hours at the park entrance, without any offer of refreshment, on one of the hottest days of the year.

Both parties agreed to conciliation. The case was settled and the following agreements were achieved:

- ➔ A full apology was given
- ➔ The zoo now includes disability equality training in its customer service training programme.
- ➔ The zoo agreed to ask their national industry body to use this case to develop a policy to prevent this from happening again to assistance dog users throughout the country.
- ➔ A payment of £500 was made as compensation for the distress caused.

‘ Thank you! The service was exemplary and helped us reach a settlement with relative ease. I was absolutely dreading the meeting and was anxious and very apprehensive. I shouldn't have been as I was well prepared. I only wish I had been brave enough to take action sooner. I have learnt a great deal from the whole process, which will enable me to manage situations better in the future. ’

A Complainant

DCS case successes

After contacting a national cinema chain's helpline about 'Audio Described' performances, Mr P, a visually impaired man, visited his local cinema. On arrival he discovered that the cinema did not have the system in place, contrary to the advice he had been given by the helpline.

Mr P then asked to see the manager, who refused to come out of his office. Instead he handed Mr P a piece of paper, which he could not see, detailing how he could make a complaint to the head office.

The conciliation meeting resulted in a full settlement of the case:

- ➔ An unreserved apology was given and the company expressed their horror at what had occurred.
- ➔ The narrative equipment is now in place and schedules can be accessed by a weekly update on the website, telephone and calling into a cinema.
- ➔ All staff have been trained in the use of the audio equipment and the company has also set up disability equality training for all staff.
- ➔ A member of staff will now always be available to assist blind/visually impaired people through the building on request.
- ➔ **Compensation of £1,000 was paid to the Complainant.**



Ms H, who is deaf, contacted her local bank using Typetalk – a telephone relay service which enables deaf people to communicate with hearing people – to get urgent information about her account.

The bank staff told her they would not disclose information to a 'third party'. By this they meant they would not communicate through Typetalk and would have to send her the information by post. The bank acknowledged that a hearing person would be provided with information immediately by phone.

Ms H contacted the Disability Rights Commission and both parties agreed to conciliation where a full settlement was reached. Senior management from the bank's head office attended the meeting:

The bank apologised to Ms H and told her of the steps they had taken since the incident, which include training all staff in the use of Typetalk and Minicom text phones, publicising contact numbers in customer literature and appointing a national DDA Project Manager.

Compensation of £750 was paid to Ms H.

How to access the DCS

The Disability Rights Commission (DRC) manages all the referrals to the DCS. They will discuss the appropriateness of conciliation with you and can then make a direct referral to the DCS if your case amounts to an alleged breach of the DDA. You can contact the DRC Helpline at any time between 08:00 and 20:00, Monday to Friday, by voice, text, fax, post or email.

- **Tel:** 08457 622 633
- **Textphone:** 08457 622 644
- **Fax:** 08457 778 878
- **Email:** enquiry@drc-gb.org
- **Post:** DRC Helpline,
FREEPOST MID 02164,
Stratford upon Avon,
CV37 9BR



**If you require this report in other formats please contact DCS at:
Disability Conciliation Service**

- **Tel:** 0117 914 2380
- **Textphone:** 0117 9142379
- **Fax:** 0117 9142381
- **Email:** information@dcs-gb.org
- **Post:** 3rd Floor, St Lawrence House,
29 - 31 Broad Street,
Bristol BS1 2HF

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