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Challenging discrimination in healthcare – a legal case from Northern Ireland





Yusef Azad

**Director of Policy and
Campaigns, NAT**

The law

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-  Disability Discrimination Act (now incorporated in the Equality Act 2010)
-  Discrimination against disabled people is unlawful in the provision of goods and services (DDA 1995 s 19)
-  People with HIV are always considered as 'disabled' for the purposes of discrimination law (DDA 2005 s 18)
-  Complainant can take a case to the county court

The problem/injury

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-  Complainant a 27 yr old male with HIV
-  Referred to hospital for an endoscopy but on arrival told by doctor the procedure would not be carried out because of a risk to equipment. Instead he was referred for barium enema x-ray for which he had to wait four months
-  At x-ray appointment, he was made to wait until all other patients had been treated, and he overheard doctors commenting to each other about his HIV positive status
-  The complainant alleged discrimination on grounds of his disability.

The court case

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-  Complainant did not consider the Hospital apology adequate and pursued the case with support from the Equality Commission for Northern Ireland
 -  The case was put down for hearing in the county court but the Hospital settled out of court in advance of the hearing
 -  The Hospital apologised for injury to feelings and distress and paid £4,000 in compensation
 -  The Hospital agreed to review its policies towards patients with HIV, and implement recommendations of the Equality Commission for Northern Ireland
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Some Lessons

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-  Protection for people with HIV on grounds of disability can be effective
-  Surveys in the UK demonstrate healthcare settings are where people with HIV most frequently experience discrimination - this can be successfully challenged as discrimination in provision of goods and services
-  The involvement of the human rights/equality body was central
-  The case was widely publicised – in this case the complainant was happy with publicity (in another, the complainant did not pursue a case when he was denied confidentiality in court proceedings)

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