

Disability Discrimination Act – Brief Summary

The Disability Discrimination Act (DDA) 1995 aimed to end the discrimination many disabled people face, giving important protection, including the duty of service providers to make reasonable adjustments for disabled people so that they do not face difficulties with access to services. This duty came into force on 1st October 2004.

The duty to make adjustments included taking reasonable steps to change any practice, policy or procedure and to remove, alter or provide means to avoid any physical feature which made it impossible or unreasonably difficult for disabled persons to make use of a service.

The most recent changes to the disability legislation move away from minimum compliance towards eliminating institutional discrimination and actively promoting disability equality and come into force on 4th December 2006. They amend and extend the existing provisions in the DDA 1995 and include the following:-

1. The Disability Discrimination Act 2005

The most significant requirements for the public sector include:

- **Section 1:** this extends the duty to make adjustments for disabled people to provisions, criteria or practices applied to physical features of premises occupied by, or under the control of, the authority that place disabled Members of the authority at a substantial disadvantage in comparison with other Members.
- **Section 2:** extends the duty to make adjustments to policies, practices, procedures and physical features so that disabled people do not face unreasonable difficulties in receiving any benefit conferred by a function of the authority or face a worse experience due to any detriment conferred.
- **Section 3 :** incorporates into the DDA 1995 a duty that has become known as the Disability Equality Duty (DED). This

duty requires that every public authority in carrying out its functions shall have due regard to-

- a) the need to eliminate unlawful discrimination;
- b) the need to eliminate harassment of disabled persons that is related to their disabilities;
- c) the need to promote equality of opportunity between disabled persons and other persons;
- d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably;
- e) the need to promote positive attitudes towards disabled persons and
- f) the need to encourage participation by disabled persons in public life.

2. The Disability Discrimination (Service Providers and Public Authorities Carrying Out of Functions) Regulations 2005. (Replacing The Disability Discrimination (Service and Premises) Regulations 1999 and The Disability Discrimination (Providers of Services) (Adjustment of Premises) (Amendment) Regulations 2004 & 2005).

The most noteworthy provisions, in the context of the duty to make adjustments, apply to both service providers and public authorities carrying out functions that are not services and include:

- **Regulation 9:** this sets out a list of things to be treated as “physical features” (whether permanent or temporary). “Physical features” encompass:
 - any feature arising from design or construction of a building
 - any features of an approach to, exit from or access to a building
 - any fixtures, fittings, furnishings, furniture, equipment or materials in or on the premises or brought on to the premises
 - any other physical element or quality of any land comprised in the premises

- **Regulation 10:** provides that it is reasonable to have to request consent of a third party before making alterations to premises that the Council occupies (but it is not reasonable for it to have to make alteration before consent is obtained) where:

-the Council is under a binding obligation to obtain the consent of any person to an alteration to premises and the alteration would be reasonable for it to carry out in order to comply with its duty to make adjustments.

- **Regulation 11:** provides that it is not reasonable to have to remove or alter a physical feature where the feature concerned was:

-provided in, or in connection with, a building for the purpose of assisting people to have access to the building or to use facilities provided in the building and satisfied the relevant design standard. "Relevant design standard" means that it cannot be more than 10 years old and must be in accordance with Approved Document M of the Building Regulations 1991.

3. The Disability Discrimination (Public Authorities)(Statutory Duties) Regulations 2005.

The regulations stipulate that the Council must publish a Disability Equality Scheme on how it intends to fulfil its Disability Equality Duty. This must be published by 4th December 2006. Authorities are required to publish a revised scheme at the latest three years after the publication of the first and to continue to do this every three years thereafter.