

Towards Inclusion – civil rights for disabled people

Government response to the Disability Rights Task Force



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Foreword



The Disability Rights Task Force was established in December 1997 to advise on how best to deliver our manifesto commitment to comprehensive and enforceable civil rights for disabled people. I was proud to chair the Task Force and to take through Parliament a Bill to establish a Disability Rights Commission (DRC), based on the Task Force's first report published in March 1998. The Commission, which opened its doors for business on 25 April 2000, is a major contributor in the drive to create equality in society for all disabled people.

In December 1999, the Task Force published its final report, ***From Exclusion to Inclusion***, which made over 150 recommendations that affect disabled people in all walks of life: from education and employment to the environment and transport. We immediately announced our intention to implement the Task Force's recommendations on civil rights in education. The Special Educational Needs and Disability Bill, which is now before Parliament, honours that commitment. In March 2000, we published an interim response to many of the Task Force's non-legislative proposals.

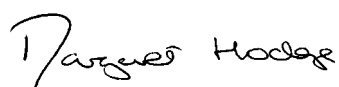
We have had to look at implementing the rest of the Task Force's recommendations against a changing background. Since the Task Force reported, the DRC has developed its three-year strategic plan, we have moved forward on implementing the remaining rights of access in Part III of the Disability Discrimination Act (DDA), and agreement has been reached on an Employment Directive under Article 13 of the EC Treaty. It was clear that consulting on the Task Force's employment recommendations was not possible before we had reached agreement on a European Directive which, itself, tackles employment discrimination. In the event, the Task Force's recommendations anticipated the major changes necessary under the Directive.

The Directive was agreed by the Council of Ministers on 17 October 2000. We secured a deal for the UK which complements our unique, and in many ways more advanced, legislative approach. It enables us to continue with the core structure of the DDA, which has proved effective and is increasingly familiar to employers, service providers and disabled people, whilst strengthening particular weaknesses in the Act that had already been identified by the Task Force.

I am delighted to publish this response to the Task Force's final report. I am inviting views from disabled people, their representative bodies, employers, service providers and public bodies on those recommendations which require legislation. These include ending the exemption of small employers from the DDA and the introduction of a new duty on public bodies to promote equality of opportunity for disabled people. In other areas, where non-legislative action is required, the document either updates progress so far, identifies how recommendations have been implemented or seeks views on implementation. We will be consulting later on any further changes that may be needed following the Article 13 Employment Directive. Given the good work of the Task Force, we believe that these other changes to the DDA would be comparatively easy to take forward.

Of course, the Task Force is only one facet, albeit a major one, of our approach to safeguarding and enriching the lives of disabled people. Section 2 of this response also reviews some of the key initiatives which have been put in place for disabled people since we came into office.

Finally, I should like to take this opportunity to thank the Task Force, on behalf of the Government, for its contribution to shaping the ever widening disability debate. The balance of expertise and knowledge provided by disability, business, trades union and local authority members was exactly right. It ensured an outcome which has identified relevant and significant measures to enhance independent living, accessibility, greater employment opportunities and increased inclusion, whilst at the same time ensuring that service providers and employers can deliver maximum improvements with minimum disruption and cost. We have been shown the way forward and it now falls to the Government, working with others, to deliver. We are committed to doing so.



Margaret Hodge, MP
Minister for Disabled People

Summary of the Government's Response to the Disability Rights Task Force

The Disability Rights Task Force

1. In December 1999, the Task Force published ***From Exclusion to Inclusion*** with 156 recommendations for Government action across all areas of disabled people's lives.
2. We immediately announced that we would take forward the Task Force's recommendations on giving disabled people new protections against discrimination in education. The ***Special Educational Needs and Disability Bill***, now before Parliament, is doing this.
3. In March 2000, we published an interim response to the recommendations for non-legislative action in many areas like housing, the environment and access to public life.
4. In ***Towards Inclusion***, we offer our final response to the Task Force. We seek, as a basis for further action, the views of disabled people, disability organisations, employers, service providers and others on the way forward on some specific legislative, and non-legislative, proposals. We also welcome views on any other issues raised in the document.
5. We also outline progress on other Task Force recommendations. Finally, we identify those proposals which have been remitted to the DRC as part of its overall role for monitoring and reviewing the DDA.

Taking forward the Task Force's recommendations on transport

6. The Department for the Environment, Transport and the Regions (DETR) is consulting separately on the Task Force's transport recommendations. In particular, that consultation will consider: how to apply the DDA to transport operators; a date by which time all rail vehicles must be accessible; and ways to make car hire and breakdown services more accessible.

Seeking your views

7. The rest of this summary covers the main issues including our legislative proposals on which we are seeking views.

Definition of disability (Part I of the DDA)

8. The DDA definition of disability does not cover people with progressive conditions such as HIV and cancer before symptoms become apparent or, in the case of cancer, in some circumstances if the condition is successfully treated. We propose that HIV should count as a disability from diagnosis and that people with cancer should count as disabled from when the cancer is diagnosed as being likely to require substantial treatment. We are seeking views on the definition of substantial treatment. We also propose that people who have been certified, or registered under local authority schemes, as blind or partially sighted should be automatically counted as disabled for the purpose of the DDA.

Employment (Part II of the DDA)

9. We propose the removal of the provision which allows employers to be able to justify failure to make a reasonable adjustment as this is already covered in the concept of reasonableness. We will add a further two examples to the DDA list of examples of adjustments that employers might make.
10. We propose repealing the small employer threshold in 2004 and seek views on what advice small employers might require prior to being brought into coverage. We also propose to bring within scope of the DDA: partners and prospective business partners in business partnerships of any size; police officers; prison officers; fire-fighters; barristers in chambers and barristers' and advocates' pupils; and employees onboard a ship, aeroplane or hovercraft registered in Great Britain. We also propose covering members of county, district and London Borough Councils and seek views on extending coverage to parish councillors. A power will be taken to bring voluntary workers into coverage if it proves necessary.
11. We propose that Employment Tribunals should: be able to consider claims of disability discrimination taking place within six months after the end of employment (and we seek views on what criteria might be considered in extending this period); be able to order re-instatement or re-engagement; and, hear complaints about discrimination by managers/trustees of

occupational pension schemes. We propose to extend the time limit – from 3 weeks to 4 weeks – within which a disabled person may issue a questionnaire following a complaint being made to a tribunal concerning alleged discrimination. We propose limiting the period for the alleged discriminator to respond to such a questionnaire to 8 weeks. Tribunals will be required to draw inferences about failure to reply to a questionnaire.

12. We seek views on a possible local authority positive action employment scheme. We propose outlawing instructions and pressure to discriminate with the DRC having a power to take action in such situations.

Access to goods, facilities, services and premises (Part III of the DDA)

13. We agree in principle to extending duties to make certain reasonable adjustments to those who let or manage property, and wish to consult on factors which might determine what would be ‘reasonable’. We also propose to take a reserve power to reduce, when appropriate, the current exemption figure for small dwellings to below six persons.

Public bodies

14. We propose to extend the DDA to ensure that it covers most functions of public authorities. We are seeking views on: how to frame this duty; issues arising from the duty of reasonable adjustment; and, which functions of public authorities might need to be excluded.
15. We also propose placing a legal duty on public bodies, when fulfilling their duties, to promote equality of opportunity for disabled people and seek views on how this might operate.

Barriers in the provision of services and equipment to disabled people

16. We are seeking views on what barriers exist in Government and public sector provision of services and equipment to disabled people and what might be done to remove these barriers.



1 Aiming for Inclusion

The Government's approach to tackling discrimination against disabled people

- 1.1 Ensuring equality of opportunity for all our citizens is a prime objective for this Government. In November 1999, we published a forward looking Equality Statement in which we explained our approach:

“Eliminating unjustified discrimination where it exists and making equality of opportunity a reality is at the heart of the Government's agenda. ... it is not only inherently right, it is also essential for Britain's future economic and social success ... We will ensure that the right legislative framework and institutional arrangements are in place ... to challenge discrimination and deliver fair treatment to allow everyone to develop and contribute to their full potential.”

- 1.2 Nowhere is this more relevant than in the case of disabled people, who can face particular disadvantage. This is starkly demonstrated by the fact that, in comparison to non-disabled people, disabled people are: nearly twice as likely to be unemployed; nearly 7 times more likely to be out of work and claiming benefits; and only half as likely to have academic qualifications. In addition, research has shown that around 42% of disabled people had problems accessing goods and services.

- 1.3 In the Equality Statement, we recognised these problems and commented that:

“The Disability Discrimination Act lags behind sex and race legislation in the protection it provides for disabled people. The establishment of a Disability Rights Commission ... will address one of the Act's major weaknesses but there are other gaps in coverage. ... we are committed to improving the rights of disabled people.”

- 1.4 Of course, legislative action alone cannot address misconceptions about disabled people nor can it directly influence the delivery of other policies and initiatives which disabled people, their families and their carers, rely upon to assist them to lead independent lives. In the Equality Statement we therefore went on to say:

“Changing negative attitudes towards disability ... is crucially important. We shall continue with our campaign to address the lack of knowledge of disability issues ... We intend to combat discrimination across a broad front, using both legislative and non-legislative measures as appropriate, and with the public sector taking the lead.”

- 1.5 Our 1997 manifesto was the foundation for this approach and we established a Disability Rights Task Force to act as a catalyst for change.

Role and membership of the Disability Rights Task Force

- 1.6 The Task Force held its first meeting in December 1997. Its terms of reference were:

“to consider how best to secure comprehensive, enforceable civil rights for disabled people within the context of our wider society, and to make recommendations on the role and functions of a Disability Rights Commission.”

- 1.7 The Task Force consisted of 24 members drawn from the disability field, business, trades unions and local authorities. Many were themselves disabled or had firsthand experience, through family and association, of disabled people’s views and needs. The Task Force was chaired by Margaret Hodge, Minister for Disabled People, for the majority of its life (having been chaired initially by the previous Minister for Disabled People, Alan Howarth). Most members remain active in the disability field - for example, Bert Massie (previously the Director of RADAR, the Royal Association for Disability and Rehabilitation) who served on the Task Force, is now Chair of the Disability Rights Commission.

- 1.8 We were conscious that the Task Force would not have sufficient time and expertise to pursue all of the issues which were relevant. It therefore established sub-groups or advisory mechanisms through which technical issues (such as the definition of disability) could be investigated. In addition, as there was no-one on the Task Force with a learning disability, a group with knowledge of such issues was set up to feed in views.

The Disability Rights Commission

- 1.9 The Disability Rights Commission was established as a direct result of the Task Force's initial work to identify the role and functions of such a body. The Task Force's first report, made to Government in March 1998, was the foundation for a White Paper consultation in July of that year (***Promoting disabled people's rights - creating a Disability Rights Commission fit for the 21st Century***: ISBN 0101397720). A subsequent Bill, based on the outcome of that consultation, received Royal Assent in July 1999. In a little over two years after the Task Force presented its proposals, the Commission opened its doors for business on 25 April 2000.

From Exclusion to Inclusion

- 1.10 The Task Force pursued its main remit during 1998/1999 and, in December 1999, published its final report to Government, ***From Exclusion to Inclusion***, containing 156 recommendations which impact on all aspects of disabled people's lives. The Introduction to the report commented that:

“Attitudes to disabled people have changed significantly ... From seeing disabled people as the passive recipients of charity, society has come to recognise the legitimate demands for disabled people to have equal rights. However, traditional preconceptions and long held prejudices still prevail. Barriers that prevent full participation in society confront disabled people every day of their lives. Activities that the rest of society takes for granted are denied to many disabled people.”

- 1.11 We fully accept this assessment. The Task Force's recommendations are a major component in our approach to addressing discrimination, extending rights and promoting equality.
- 1.12 In **Section 2** of *Towards Inclusion* we give an overview of our main achievements for disabled people since we came into office. In **Section 3** we outline our proposals for legislation, and for some non-legislative action, in response to the Task Force's recommendations. We are seeking comments on our proposals for amending the DDA in the areas of the definition of disability; employment; and access to goods, facilities and services and the sale, letting and management of premises. In these areas, the Task Force made 14 recommendations supporting the main elements of the DDA and 41 recommendations for legislative change. We are proposing to legislate on, consider further or, in 4 cases, adopt a good practice approach to 36 of these 41 recommendations. Action on 3 recommendations is unnecessary, or undesirable, because of other changes we are proposing to the DDA.
- 1.13 In **Annex 1** we report on progress so far, and update further action taken, on those recommendations which were addressed in our interim response in March 2000 as well as other recommendations which are not covered in Section 3. To put the proposals in Section 3 in context, **Annex 2** is a description of the main provisions in the DDA and how they currently operate.
- 1.14 **Annex 3** is a Draft Regulatory Impact Assessment. This identifies the costs and benefits of all the main proposals in Section 3. In particular, it identifies the possible effects on the small business sector as a result of ending the exemption from the DDA's employment provisions. We would welcome views and additional information in order to help finalise our assessment.

Scotland, Wales and Northern Ireland

- 1.15 Within Great Britain, the legislation on equal opportunities, including the Disability Discrimination Act, is a reserved matter. Therefore, the Government would propose that any legislation in this reserved area would extend to England, Scotland and Wales. In Scotland, there are exceptions to the reservation. These exceptions cover the encouragement of equal opportunities and the imposition of duties on certain public authorities to ensure that their functions are carried out with due regard to the need to meet the equal opportunity requirements. In Northern Ireland, anti-discrimination legislation is a matter for the Northern Ireland Assembly although the provision for the statutory duty to promote equality of opportunity in the Northern Ireland Act 1998 is reserved to Westminster. This response extends to Northern Ireland only in relation to reserved and excepted matters. The Northern Ireland Administration will be delivering its own response to the Task Force's recommendations concerning devolved matters in due course. In addition, the Equality Commission for Northern Ireland will work with the Disability Rights Commission on those recommendations the DRC is to pursue.

Responding to the consultation

- 1.16 A questionnaire, with a Freepost address, is provided. Responses should be sent to arrive no later than Friday 8 June 2001 to the following address:

DRTF Consultation
Freepost CY 1199
PO Box 2001
Burgess Hill
RH15 8BR

Tel: 01928 794888

Fax: 01928 794311

Email: Response.DRTF@DFEE.GOV.UK

Textphone: 020 7273 4921

1.17 This document has also been produced in a variety of accessible formats (including Braille, large print, audio, BSL video, disk and a version for people with learning disabilities). It is also available in Welsh. This document gives general guidance only and should not be treated, where existing law is discussed, as a complete and authoritative statement of the law. Further copies of the main document, or an accessible version, are available from the address below. Please quote “DR02 Towards Inclusion” when ordering additional copies or an accessible version.

Prolog.uk.com
Sherwood Park
Annesley
Nottingham
NG15 0DJ



2 Tackling Barriers to Full Participation by Disabled People

Civil rights for disabled people

- 2.1 Section 1 of this response describes the key role taken by the Disability Rights Task Force in the drive to address inconsistencies and weaknesses in the current legislative framework, ie. the Disability Discrimination Act. In this section, by way of background, we look at some of the main achievements for disabled people since we came into office. Annex 1 sets out our response to those Task Force recommendations which are not covered in Section 3 (ie. the section covering our proposals to take forward many of the Task Force's legislative recommendations and some significant non-legislative issues).
- 2.2 In addition to continuing to implement the DDA to ensure that disabled people have improved rights of access to goods, facilities, services and premises, we have moved to remedy the Act's defects. In this respect, establishing the **Disability Rights Commission** is the most significant step so far in our drive to promote the rights of disabled people and create equality of opportunity in society.
- 2.3 The Commission has four prime duties:
- to work towards the elimination of discrimination against disabled people;
 - to promote the equalisation of opportunities for disabled people;
 - to take steps to encourage good practice in the treatment of disabled people; and
 - to keep the Disability Discrimination Act and the Disability Rights Commission Act 1999 under review.
- 2.4 As well as providing comprehensive information and advice on a range of disability issues to disabled people, employers, service providers and others, the Commission has further functions. For example, it assists disabled people to secure their rights; provides an independent conciliation service in the event of disputes between disabled people and service providers over access to goods and services; and has powers to undertake formal investigations into how disabled people are treated in a particular

organisation or sector, and into unlawful acts by particular organisations. The Commission's website is www.drc-gb.org and its Helpline number is 08457 622633 or Textphone 08457 622644.

- 2.5 The Commission's strategic plan for the next three years signals its intention to advise the Government on how it sees the Task Force recommendations being implemented. We look forward to its views on this consultation.

Special Educational Needs and Disability Bill

- 2.6 Since its implementation, the Disability Discrimination Act has protected disabled people seeking access to goods, facilities and services. One major exception to this, highlighted by the Task Force, is education.
- 2.7 We agreed with the Task Force that this situation was unacceptable and announced immediately upon publication of the Task Force's report that we would legislate to end what was clearly an injustice. The ***Special Educational Needs and Disability Bill***, which was introduced in Parliament on 7 December 2000, will do this. The Bill also takes forward proposals set out in our ***1998 SEN Action Plan***.
- 2.8 The Special Educational Needs provisions apply to England and Wales. Education in Scotland is a devolved matter. The disability provisions apply to England, Scotland and Wales with one exception (ie. the duty to plan strategically, which applies only to England and Wales).
- 2.9 We announced last November, as part of our wider drive to improve access to education for disabled children and adults in England, an additional £220 million over the next three years from 2001 for schools, and £172 million over two years from 2002 to improve access in further and higher education and in LEA-secured adult education and youth service provisions. In 1997/1998 there was only £3.6 million available under the Schools Access Initiative and £16.9 million under the SEN Standards Fund. For 2000/2001 these amounts are £30 million and £82 million respectively.

- 2.10 In Scotland, the Executive will allocate suitable funding over the next three years, to be determined by Scottish Ministers, to improve access to schools. In further education, £52 million has been allocated to the **Scottish Further Education Funding Council** for capital projects; from this funding £5 million has already been provided to the colleges to improve physical access. A further £4 million over two years has been allocated to address issues of disability in higher education.
- 2.11 In Wales, the National Assembly is significantly boosting provision for investment in schools to around £100 million per year with a view to ensuring that all schools are in good physical condition by 2010. In putting forward proposals for approval for the use of additional capital funding, local authorities will have to show that they are taking appropriate steps to improve access to schools for disabled pupils.
- 2.12 We have been consulting on a revised **SEN Code of Practice** which will come into effect in September 2001. This will reflect the changes being introduced by the Special Educational Needs and Disability Bill. Additional guidance will be published alongside the Code which will help mainstream schools make good quality provision for disabled children and children with learning difficulties.
- 2.13 We have always taken - and will continue to take - a pragmatic approach to inclusion to ensure we safeguard the interests of **all** children. We are not interested in dogma. Rather, we are about what works and raises standards for all. We want an inclusive education service to offer excellence and choice.

Article 13 Employment Directive

- 2.14 At the same time as we were considering how best to pursue the Task Force's recommendations, we were negotiating to secure agreement on a Directive brought forward under Article 13 of the European Community Treaty. An agreement was secured on 17 October 2000 which allows us to retain the core elements of the DDA.

2.15 The Directive outlaws discrimination against people in, or seeking, employment on the grounds of their religion, age, disability or sexual orientation. The Task Force's legislative recommendations anticipated the major changes required by the Directive. The Task Force's support for the core elements of the DDA helped reinforce our stance in negotiations.

Raising awareness of disability

2.16 In 1999, we launched a campaign – **See the Person** – designed to raise awareness of disability amongst employers and service providers. The campaign challenged misconceptions about disability and demonstrated that many barriers come from society.

2.17 The campaign consisted of a number of hard-hitting television, radio and newspaper advertisements which were marked by their non-compromising and thought provoking approach. On 16 October 2000, the campaign moved on to ask businesses, particularly small businesses, **What have you got to offer?** The aim is to encourage service providers to make changes so that their services are accessible to disabled people.

2.18 The Disability Rights Commission also has a valuable role to play in raising awareness. Its Helpline and website are available not only to disabled people but to support businesses requiring particular information and advice about the changes they should consider making as a result of their obligations under the DDA.

Increasing employment opportunities for disabled people

2.19 We have put a wide range of initiatives and reforms in place to help encourage disabled people back into the labour market and to assist employers in opening up workplaces to them. These are intended to address the labour market disadvantage faced by many disabled people and those who are long-term ill. Alongside new initiatives, we have also taken steps to modernise and re-focus existing programmes that offer support to disabled people in relation to employment.

- 2.20 A key initiative is the ***New Deal for Disabled People (NDDP)***, the goal of which is to increase the labour force participation rate of this highly disadvantaged group. Disabled people have a particularly low level of participation in the labour market and low employment rates.
- 2.21 The NDDP helps disabled people in receipt of incapacity benefits back into work. Recognising the lack of proven programmes, the NDDP pilots are testing a variety of approaches and delivery mechanisms. To date they have consisted of:
- twelve personal adviser service pilots; and
 - twenty four innovative schemes testing new ideas.
- 2.22 Services are being delivered by the public, voluntary and private sectors. Interim evaluation of the pilot PA service was carried out by a consortium of research organisations led by the Centre for Research in Social Policy. The Tavistock Institute carried out an evaluation of the Innovative Schemes. The interim evaluation reports were published in December 1999. The final evaluation reports will be published in the late spring 2001.
- 2.23 We have set aside new money for the extension of the NDDP service across the country; and for new ***Job Retention and Rehabilitation*** pilots. Both initiatives will continue to place great emphasis on testing experimental approaches in order to develop the most effective service possible to help disabled people into work. From July 2001, the nationwide extension of the NDDP will test out the effectiveness of innovative ***Job Brokers***, whose role it will be to help disabled people become ready for work, and to put them in touch with employers. Beginning later in 2001, Job Retention and Rehabilitation pilots will test the effectiveness of integrated health and employment interventions in keeping people in work who are otherwise at risk of losing their job through illness or disability.
- 2.24 From April 2001, lone parents with a disability who are in receipt of Income Support, and have a child of compulsory school age, will be invited to attend a meeting with a ***New Deal for Lone Parents*** adviser, to discuss vocational and training options available to them. This will help identify which areas of

the New Deal might benefit the lone parent the most. By having disabled people in the client group we are demonstrating our commitment to including those with disabilities in mainstream welfare programmes.

- 2.25 The **ONE** service provides a single point of access to advice on work and benefits for working age clients in 10% of the country. The service assists clients who want to move towards work in identifying and overcoming barriers to independence; through help with job search, vocational training, childcare needs or benefits queries.
- 2.26 **Personal Capability Assessment** replaced the All Work Test on 3 April 2000. The test for the purposes of determining entitlement to incapacity benefits remains unchanged but the assessment process now enables additional information about people's work-related capabilities to be collected. A 'capability report' is produced for the client's Personal Adviser, who can use it to help people plan for a return to work. Capability reports have been available in areas covered by the ONE pilot since November 1999 and in areas covered by the NDDP since September 2000.
- 2.27 The **Access to Work** programme provides practical help to disabled people in, or entering, paid employment. In 1997/1998 the budget was increased by 19%. In 1998/1999 it was increased by 34%. In 1999/2000 the increase was 28%, to £22.3 million (with a further increase in 2000/2001 of 22%). Cost-sharing for self-employed people was abolished in October 1998 and cost sharing for support workers was abolished in June 1999. Since 1997, over 21,000 disabled people have been helped as a result of Access to Work.
- 2.28 **Information Communication Technology (ICT)** plays a major role in opening up opportunities for disabled people in every aspect of life including education, employment and in gaining equal access to information. We recognise the importance of this issue and are examining how access to ICT for disabled people can be improved. We are considering a number of specific ICT initiatives to develop a more systematic approach to taking this forward.

- 2.29 In December 2000, we announced a radical modernisation of the £161 million **Supported Employment Programme**. Improved work opportunities will mean that around 5,000 disabled people will be able to progress into mainstream work over the next three years. New opportunities for personal development and progression will be available to over 22,000 disabled people already working on the Supported Employment Programme. As a further element of modernising the programme it will be re-named **WORKSTEP** from April 2001.
- 2.30 The **National Disability Development Initiative (NDDI)** is developing existing disability services and support available through Jobcentres. The initial nine projects were set-up to help a wide range of disabled people, from a broad geographical spread to identify suitable occupations. These pilots were completed in June 2000. The second round of NDDI has started with three projects to develop key tools for employment assessment and a project helping people with low back pain return to work.
- 2.31 **Joint Investment Plans for Welfare to Work for Disabled People (JIPs)** bring together a range of statutory and voluntary agencies that support disabled people who work or wish to move towards employment. The development of these plans (initial versions of which will be in place from April 2001) is being led by local authorities with key involvement from the Employment Service and Benefits Agency. JIPs will help to plan and reprioritise existing support and services for disabled people in employment. More information is available on: www.doh.gov.uk/jointunit/jip.htm
- 2.32 **Equality Direct** was launched on 29 January 2001. The telephone advice service (0845 600 3444) offers business managers easy access to authoritative, joined-up and practical advice about a wide range of equality issues, including disability, for the cost of a local call. Advisers are helping to identify practical solutions in response to detailed questions, and discuss the related costs and benefits in order that managers can make an informed decision about the best approach for their business. The service has been designed in close partnership with the three Equality Commissions, ACAS, DTI, and Federation of Small Businesses, with the needs of small businesses uppermost in mind. During the two-year pilot period, we expect the service to handle some 200,000 calls. A web based 'toolkit' is available at www.equalitydirect.org.uk

The Government as an employer

2.33 We are keen to play our own part as an employer of disabled people. One of the key commitments in the reform programme for the Civil Service is to achieve a dramatic increase in diversity in the service. To help tackle under-representation in the Senior Civil Service we have set a target to double the number of disabled people at the Senior Civil Service level to 3% by 2004/2005. Individual Departments are setting their own targets for employment of disabled people at other levels.

Improving transition into work and education

2.34 We have introduced the **Connexions Service** to provide advice and guidance for all young people aged 13-19 in England as they make the transition from school to further learning and working life. The Service, which is being phased in from early 2001, will give priority to those young people who are at greatest risk of not making a successful transition, including young people with learning difficulties and/or disabilities.

2.35 One of the Service's responsibilities is to ensure that every young person with a learning difficulty and/or a disability has an assessment of their needs and the provision to meet those needs. The new **Learning and Skills Council** must take account of these assessments when it develops provisions in its area.

2.36 In **Further Education**, we support the improved provision for students with learning difficulties and disabilities set out in the Tomlinson report ("Inclusive Learning"). In the light of this, the Further Education Funding Council (FEFC) has added extra funding bands to its arrangements to assist students requiring additional support (the ceiling of the top band is £19,000). It has also reintroduced the mechanism whereby colleges may apply for specific additional financial support for students whose support costs are in excess of £19,000.

2.37 In 1999/2000, the **Further Education Funding Council for Wales** provided £2.5 million to enable institutions to make their mainstream college programmes accessible to some 2,500 disabled students and/or students with learning difficulties - a fivefold increase since 1993/1994.

- 2.38 In 1997, the FEFC allocated £1 million for stage one of a three-year quality initiative to take forward a programme of staff development to improve inclusive learning in colleges. The FEFC committed a further £4 million to support this initiative up to March 2001.
- 2.39 In **Higher Education**, Disabled Students' Allowances have been extended to part-time and postgraduate students. The full-time rates for undergraduate students are up to £4,155 for specialist equipment and up to £10,505 for non-medical helpers. Disabled undergraduates can also claim an allowance of up to £1,350 full-time or £1,039 part-time for additional expenditure. They can also get help with their travel costs.
- 2.40 The **Higher Education Funding Council for England** has introduced a new funding method providing institutions with funds to recruit and support students with disabilities, worth £7 million in the 2000/2001 academic year. It has also set up 48 special funding projects worth £6 million over three years to support institutions with limited provision for disabled students. The Council has also established a National Disability Team which provides advice and support for these projects. In addition, the Council will receive £56 million over the next two financial years for use on improving access and to help institutions to provide the necessary specialist equipment and support.
- 2.41 The **Higher Education Funding Council for Wales** is making £500,000 available for the second year running in 2000/2001, to help Welsh institutions ensure that provision for disabled students is at least maintained at, or brought up to, base level.
- 2.42 In Scotland, the Beattie Committee examined the needs of young people who require additional support to make the transition to post-school education and training, or employment. In responding to its recommendations the Scottish Executive has set up the **National Action Group** to develop and implement action and to provide a national lead and focus for implementing "Inclusiveness in Scotland". An additional £22.6 million has been made available over the next three years from the Scottish Executive's Spending Review to take forward the recommendations.

Health and Social Services

2.43 The forward agenda for health and social care services is set out in the ***Modernising Social Services White Paper*** (November 1998) and the ***NHS Plan*** (June 2000). Both documents emphasise the importance of partnership working, offering joined up and person-centred services right across the health and social care fields. The Plan emphasises that the NHS of the 21st century must be responsive to the needs of different groups and individuals within society, and challenge discrimination wherever it arises, including on the grounds of disability. We are taking action to ensure that steps to promote independence for disabled people are at the heart of social services for adults. More information is available on: www.nhs.uk/nationalplan

2.44 Our programme of action for disabled people includes the following key initiatives:

- The ***Learning Disability White Paper*** (www.doh.gov.uk/learningdisabilities) will be published later in 2001. This is the first major initiative in 30 years for adults and children with learning disabilities. It will set a new agenda based on social inclusion and civil rights to modernise services and enhance the quality of their lives.
- The ***Carers and Disabled Children Act***, which received Royal Assent in summer 2000, contains provisions to extend the ways in which social services may provide support to parents who need help in bringing up their disabled children. More information is available on: www.carers.uk
- The ***modernising community equipment project*** (www.doh.gov.uk/scg/communityequipment.htm) aims to integrate equipment services provided by health and social services and increase the number of users by 50% by 2004.
- ***Hearing aid services*** (www.doh.gov.uk/hearingaidproject/index.htm) are currently being modernised. Twenty pilot sites are being set up to examine the feasibility of introducing digital aids into the NHS and to look at ways of improving service delivery.

- In Scotland, a working group has been established to look at **adult hearing aid fittings and services**. A team of experts is preparing guidance and recommendations for good practice for the benefit of NHS Scotland. We are also considering a wide-ranging review of audiology services.
- **Statutory guidance** will be issued to councils with social services responsibilities early in 2001, aimed at improving services provided for people who are deafblind. More information is available on: www.doh.gov.uk/scg/deafblind
- Our **Quality Projects Programme** has set clear objectives and targets for services for disabled children and their families. £60 million from the Children's Services Grant has been earmarked for services for disabled children over the next three years.
- In December 2000, we announced that the **Family Fund Trust** and **Contact-a-Family**, which provide services to disabled children and their families, would receive an additional £7.5 million between them over three years.
- Pilots for a **Universal Neonatal Hearing Screening programme** will run for a year from spring 2001 in twenty sites around England.
- **Care Direct** will provide, direct to the public, information about and access to social care, health, housing and social security benefits.

2.45 Many of our more general modernising initiatives have important implications for disabled people. We are determined to see a greater level of fairness and consistency in the delivery of services. Our action programme includes:

- the introduction of **National Service Frameworks** in many areas including services for older people, people with diabetes, and people with mental health problems;

- following the Care Standards Act 2000, the establishment of a **National Care Standards Commission** to regulate social care services including residential and domiciliary care;
 - proposals in the NHS Plan for new systems to strengthen patient and public involvement in the management and development of health services. These include the introduction of a **Patient Advocacy Liaison Service (PALS)** which will assist patients and their carers with any problems they experience in using NHS Trust services;
 - the **Fair Access to Care** initiative which will improve the way in which local authorities define and apply eligibility criteria for adult social care services and ensure the needs and circumstances of all adults receiving services are reviewed frequently.
- 2.46 We have made additional resources available to **Personal Social Services in England**. The increase will allow growth at the average rate of 3.4% per annum in real terms for each of the three years 2001/2002 to 2003/2004. We have also made a step change in the resources available to the NHS in England. Between 2000/2001 and 2003/2004 the Health Service will receive the largest level of sustained real terms growth over any four-year period in its history.
- 2.47 In Scotland, **Our National Health: A plan for action, a plan for change** (December 2000), **Modernising Community Care and Action Plan** (October 1998) and **Aiming for Excellence: Modernising Special Work Services in Scotland** (March 1999) set out the agenda for improving health and social service provisions.
- 2.48 The National Assembly for Wales will be publishing the **NHS Strategy for Wales**. This will set out a ten-year plan for the NHS and will identify ways in which services can be improved and strengthened, including joint working with Social Services.

Social Security and other financial measures

2.49 We have put a range of measures in place to make work pay and remove barriers to work for disabled people (www.dss.gov.uk). These include:

- **the Disabled Person's Tax Credit** – to encourage people who want work to leave incapacity benefits and provide financial assistance to disabled people already in work;
- **the National Minimum Wage** – provides a minimum amount of pay per hour to workers aged 18 or over including disabled people;
- **higher earnings disregards in the Independent Living Funds (ILF)** – ILF clients who work can now keep 45% of their earnings between £30 and £200 a week in addition to the first £30. Previously, working clients could only keep £30 a week above what they would have received on Income Support;
- **improvements to therapeutic earnings rules in Incapacity Benefit** - to help improve, prevent or delay the deterioration in conditions which cause incapacity to work and provide for up to 16 hours work per week, and earnings of up to £59.50 a week, without loss of benefit;
- **52-week linking rule** – introduced to allay some risks faced by disabled people when moving from benefit into work by allowing them, within a 52-week period, to return to the same level of benefits they were receiving before they started work or training.

2.50 Since October 2000, families with a disabled child receive extra help from the **Disabled Child's Tax Credit**, part of the Working Families Tax Credit.

2.51 The packages of improvements to disability and carer benefits announced in the Spending Review 2000 and the Pre-Budget Report will be worth £750 million over the next three years:

- From April 2001, the new **Disability Income Guarantee** will help 130,000 of the poorest severely disabled people under 60 and 30,000 families with a disabled child, ensuring an income of at least £142 a week for a single person and £186.80 for a couple.

- From April 2001, we are increasing the **Disabled Child Premium** in the income-related benefits to £30 a week.
- Carers will benefit from a package of extra help worth £500 million over three years. From April 2001, we are increasing the **carer premium in income-related benefits** by £10 above the normal uprating to £24.40 a week. We are also raising the earnings limit in **Invalid Care Allowance** from £50 per week to the Lower Earnings Limit for National Insurance contributions, which, subject to Parliamentary approval, will be £72 a week from April 2001.

2.52 We have also legislated to give carers credits to the State Second Pension with effect from April 2002. From 2002, young people disabled early in life who have not had the opportunity to work will get up to £27.60 (at 2001 benefit rates) a week extra from **Incapacity Benefit**. We have announced a substantial increase in payments under the **Vaccine Damage Payments scheme**, coupled with a relaxation of the eligibility criteria. From April 2001, we are providing more help to disabled children by extending the **higher rate mobility component** of the **Disability Living Allowance** to severely disabled 3- and 4-year-olds.

2.53 In response to the Social Security Select Committee's report, we have set targets for customer care and medical quality in benefit-related medical services. Work is ongoing to ensure that those targets are met.

Transport

2.54 We are committed to an accessible public transport system in which disabled people can enjoy the same opportunities to travel as other members of society. In July 2000, we published a **10-Year Transport Plan** which pledged access for disabled people as a condition of new investment in transport. From 1 January 1999, **Rail Accessibility Regulations** have applied to all trains and trams. From 31 December 2000, **Public Service Vehicle Accessibility Regulations** have applied to all new buses and coaches with more than 22 passengers on local and scheduled services. From 31 March 2001, regulations will require **drivers of licensed taxis** to carry, free of charge, guide, hearing and certain other assistance dogs accompanying disabled people.

- 2.55 The **Transport Act 2000** provides for a new national minimum standard for local authority concessionary travel schemes. This will ensure that certain groups of disabled people will be entitled to at least half fares. The legislation comes into force on 1 April 2001 in London and from 1 June 2001 in other parts of England.
- 2.56 The DETR has been working with a number of bodies (including the Institute of Highways and Transportation) to draw up **guidance for providers of pedestrian and transport infrastructures** to help them plan and design to meet the access needs of disabled people. The new guidance is due to be published shortly.
- 2.57 We are also aware that many disabled people will continue to rely on the private car for their day-to-day mobility. DETR and the Department of Health are committed to funding over the next three years a **network of mobility centres in England** which provide advice and assessment to disabled people on driving and vehicle choice. We are also committed to ensuring there is some form of exemption from road user charging and workplace parking levies for disabled people. Our review on these matters is expected to be completed around the end of 2001.

Housing

- 2.58 The extension of **Part M of the Building Regulations** came into effect from October 1999. This will ensure that all new domestic dwellings must be made accessible for disabled people. Equivalent provisions for Scotland came into force on 17 April 2000. More than 10 million people, not only disabled people but their friends and families, will eventually benefit from better access and facilities in new homes.
- 2.59 The **Local Government Housing Act 1999** places a general duty on best value local authorities to secure continuous improvements in the way they exercise their functions. The **Best Value in Housing framework** document covers adaptation services in the context of local performance indicators. (These measures are described more fully in Annex 1 - recommendations 8.10 and 8.12.)

Trade and Industry

- 2.60 The **Phoenix Development Fund** invites organisations to bid for support for projects that encourage business start-ups (and helps existing businesses) amongst groups who face disadvantages. In the first round of bidding, 5 projects designed to assist disabled people will receive support. More information is available on the website:
www.businessadviceonline.org/press/phoenix.asp
- 2.61 Work has also been carried out to promote safety in the design of consumer products. In August 2000, we published ***A study of the difficulties disabled people have when using everyday consumer products.*** Aimed at designers, it contains a breakdown of everyday activities and consumer products that some disabled people can find difficult to use and details of their coping strategies.
- 2.62 In addition, work to **encourage industrial innovation** involves projects with relevance to disabled people. One project concerns the development of a new video server which will enable access to business information and remote interpreting facilities.

Culture, media and sport

- 2.63 We are committed to increasing the participation of disabled people in all roles in the arts, the media, the built heritage, sport, museums, galleries and archives, the library service and tourism. A commitment to best practice in relation to disabled people is a requirement of the Funding Agreements made between the Department for Culture, Media and Sport (DCMS) and its non-departmental public bodies. Venues receiving Government or lottery funds must demonstrate proactive access policies.
- 2.64 A number of major policies and programmes, which promote creative and sporting opportunity, will include opportunities for disabled people. For example:
- Our sports strategy, ***Sport for All***, aims to ensure that disability is no barrier to inclusion in sport. Arrangements, including teacher support

and development, should support young people with physical and learning disabilities in both mainstream and special schools. It recognises that there must be more playing opportunities and a concerted effort to train more disabled people to become coaches, officials and administrators.

- **Space for Sport and the Arts:** access for children with disabilities is emphasised in the guidance on this major provision for primary schools.
- **Creative Partnerships:** this programme of arts and creative opportunity for pupils in deprived areas will provide for the needs of children (and teachers) with disabilities.
- The English Tourism Council have recently published **Accessible Britain 2000/01** addressing the practical travel and leisure needs of disabled people.

2.65 Following consultation during 2000 with disabled people, representative organisations and public bodies, the DCMS will publish an action plan which seeks to put its sectors at the forefront of good practice in access, participation and employment in culture, the media and sport.

2.66 Recognising the importance of access to television services to people who are deaf or who have hearing impairments, or are blind or partially sighted, we issued a consultation paper in July 2000. A copy of the resulting **Report, on the Review of Statutory Requirements for the Provision of Subtitling, Sign Language and Audio Description Services** is available on the DCMS website at www.culture.gov.uk

Access to the countryside

2.67 The **Countryside and Rights of Way Act 2000** requires local highways to take account of the needs of disabled people when preparing statutory rights of way improvement plans. Relevant authorities must have due regard to the needs of disabled people when authorising the erection of gates and other barriers on footpaths and bridleways. (This is described more fully in Annex 1 recommendation 8.13).

Participation in public life

2.68 The ***Representation of the People Act 2000*** introduces changes to help disabled people to get access to the election process. For example, the returning officer will provide at each polling station at least one large display version of the ballot paper and a device to enable blind or partially sighted voters to vote without the need for assistance. (This is described in more detail in Annex 1 recommendations 9.1, 9.2 and 9.5.)

Health and safety

2.69 ***Revitalising Health and Safety*** and ***Securing Health Together - an occupational strategy for Great Britain*** were launched during the summer of 2000. These strategies recognise that helping disabled people to be in employment is part of the health and safety agenda. They commit the Health and Safety Commission and the Health and Safety Executive to working with others to take appropriate action to ensure health and safety is never used as a ‘false excuse’ for not employing disabled people. This includes measures to ensure that disabled people, where appropriate, return to or remain in their work. For further information on these and other issues see www.hse.gov.uk/revital/index.htm

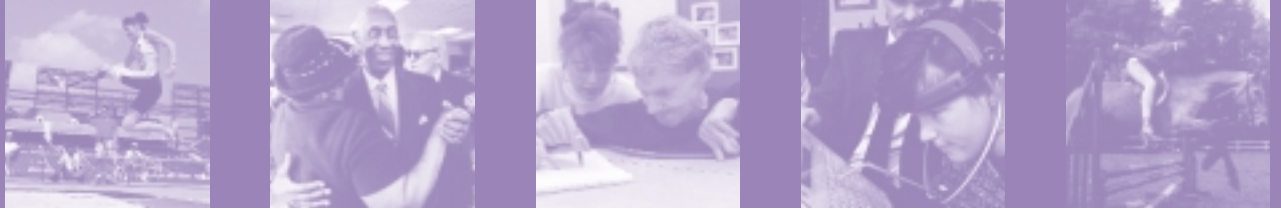
Wide range of additional measures

2.70 The issues outlined in this section are by no means comprehensive. However, they give an indication of the breadth and depth of areas where we have taken significant action to address the inequalities faced by disabled people. In addition, Annex 1 to this response, in answering specific Task Force recommendations, sets out other steps taken to promote inclusion and address inequality.

Conclusion

2.71 Our record speaks for itself. In all spheres of Government influence we have legislated, introduced new initiatives or improved guidance and working arrangements, to ensure better service provision and greater accessibility for disabled people.

- 2.72 But we are not complacent. We know all too well that disabled people still face barriers when seeking employment, in obtaining the respect and consideration that other people take for granted, when accessing goods and services that are available to others, and when trying to participate as full and active members of society.
- 2.73 That is why our 1997 manifesto committed us to an overhaul of the way that legislation and policy operates in this country. We went into that with no preconceptions. We purposefully established a cross-cutting Task Force of active and informed members to ensure that the difficult issues were tackled openly.
- 2.74 The Task Force was the first body of its kind to operate in a completely transparent way, as befits our commitment to work in partnership with all interested parties. Its papers and minutes of meetings were available on the Department for Education and Employment's disability website (www.disability.gov.uk) and comments were invited from those who were interested in expressing their views on the Task Force's work.
- 2.75 This approach has been successful. We now have before us a clear and extensive agenda of measures that will help us to decide how to strengthen disabled people's rights and increase their role in society. Working together across Government, we will implement the vast majority of the Task Force's recommendations and continue to work with the Disability Rights Commission to evolve and refine our approach.



3

Improving Civil Rights and Services for Disabled People

Overall response to the Task Force

- 3.1 The Task Force acknowledged that the DDA marked an important step forward in disabled people's rights. In a number of its recommendations, the Task Force commented that the current DDA approach should continue. This reinforced its importance as a major tool in combating discrimination in the UK. However, the Task Force also recognised that the DDA had a number of omissions, weaknesses and inconsistencies which needed to be addressed. We have already taken steps to address two of the major omissions - the need for a Disability Rights Commission and the unjust exclusion of education from the scope of the Act (see paragraph 2.7 in Section 2 and Annex 1).
- 3.2 We welcome the Task Force's recognition of the importance of the Act. However, we have always believed that it had some flaws. Therefore, we also welcome the Task Force's detailed recommendations on the definition of disability, employment, access to goods, facilities, services and premises, and transport. The Task Force recommended a range of changes that could improve the DDA's provisions in these areas and suggested possible changes in the future once there had been further monitoring and review of the DDA. It also made some recommendations on guidance, good practice and other non-legislative issues in the same area. In this section, we are responding to these recommendations. The questionnaire which comes with this document provides the opportunity for comments on these and other issues.
- 3.3 The Task Force made many other recommendations on a wide range of issues. In Annex 1 we provide our response, or update progress, on those areas covered in our interim report in March 2000 and other issues not covered in this section.

DEFINITION OF DISABILITY

Summary of Task Force recommendations

- 3.4 The definition of disability in the DDA is very wide (see Annex 2) though this is not generally recognised. It covers people with obvious physical disabilities, including people with visual or hearing impairments, but it can also include people with mental illness, arthritis, epilepsy, diabetes, heart conditions and so on. Overall, some 8.5 million people are covered by the definition in the UK.
- 3.5 The Task Force found only two conditions which were clearly not adequately covered, even though many people with them would already be included - cancer and HIV infection. It also proposed an additional way of proving disability to help some people with visual impairments at a tribunal or court. It also wanted the way in which the definition works in practice to be monitored and reviewed generally, and identified a number of specific issues for review.
- 3.6 The Task Force considered that the statutory guidance about the definition for use in courts and tribunals was useful but felt that it could be improved, and proposed it be redrafted to cover two issues more clearly.

3.7 **Task Force recommendation 3.1:**

The Government, the DRC and the Equality Commission for Northern Ireland should ensure that guidance and other communication on disability matters cover the wide range of disabled people, including all age groups and impairments. (3.1)

3.8 **Government response:**

We accept the Task Force recommendation that any guidance and information produced on the DDA and related disability issues should make clear the wide range of disabilities covered by the DDA definition. We have written to all Government departments and agencies to make them fully aware of this. The DRC, which is responsible for a great deal of guidance on the DDA, has already accepted the Task Force recommendation.

3.9 *We also launched good-practice guidance “Let’s make it accessible” in February 2001 to all Government Departments and agencies about how to make their information to the public accessible to disabled people.*

3.10 **Task Force recommendations 3.2 and 3.3:**

HIV infection should be deemed a disability from the point at which it is diagnosed. (3.2)

To extend coverage beyond those people with, or who have had, cancer already covered by the DDA definition, people with cancer should also be deemed to be disabled from the point at which it has significant consequences on their lives. (3.3)

3.11 **Government response:**

We will ensure that HIV infection counts as a disability from the time at which it is diagnosed. We will also ensure that, in addition to those already covered by the DDA definition, people with cancer count as disabled from the time at which the cancer is diagnosed as being a condition that is likely to require substantial treatment. We will make these changes as soon as legislative time allows.

3.12 *We propose that substantial treatment would be any treatment which is more than minor or trivial. This would include not just in-patient treatment but also out-patient treatment where the patient has to return because the original treatment has not proved successful or further treatment is required. We are consulting on this proposal.*

3.13 **Task Force recommendation 3.4:**

People who are certified as blind or partially sighted should be conclusively presumed to meet the DDA definition of disability. (3.4)

3.14 **Government response:**

*People living in a local authority that operates a registration scheme, and who have been certified as blind or partially sighted by an ophthalmologist, can register with the local authority. We would expect that they would meet the DDA definition of disability in any event but some visually impaired people seem to have found it difficult to prove they are disabled at an Employment Tribunal. We will therefore, when legislative time allows, count both registration with a local authority, and certification with an ophthalmologist, as blind or partially sighted as additional and conclusive proof that someone with a visual impairment is disabled. We propose that people can use either registration or certification as proof because documentary evidence of one may sometimes be more easily available than the other. In addition, **anyone** with a visual impairment who is disabled will continue to be able to prove that as now.*

3.15 **Task Force recommendations 3.7 and 3.8:**

The statutory guidance to tribunals and courts should be improved and clarified to help ensure that the legislation's intention for what constitutes normal day-to-day activities is met, particularly in relation to work. (3.7)

The issue of disregarding disabled people's coping/avoidance strategies should be made clearer in statutory guidance to tribunals and courts so that the true effects of a disability are considered. The guidance should also seek to ensure that tribunals and courts probe further, where appropriate, into the issue of effects on normal day-to-day activities and not just accept that the person is coping within reasonable expectations. (3.8)

3.16 **Government response:**

Since the Task Force reported, case law developed by the appeal courts - which takes priority over statutory guidance - has clarified some of the issues concerning statutory guidance to tribunals and courts identified by the Task Force. For instance, in deciding whether someone is disabled tribunals must now focus on the things that an applicant cannot do, or can do only with difficulty, rather than the things that the person can do. This should help some disabled people, including some people with visual impairments, who cope by avoiding some day-to-day activities that they would find difficult. We will revise the statutory guidance on the definition of disability, once we have legislated to make the changes to the definition of disability proposed above, and consult widely on any changes.

3.17 **Task Force recommendation 3.5, 3.6, 3.9, 3.11 and 3.12:**

The list of capacities relating to normal day-to-day activities in the DDA definition should be reviewed and consulted on, with a view to extending it, if necessary, to ensure an appropriate comprehensive coverage of mental health conditions and dysphasia. (3.5)

The concept of covering only 'clinically well-recognised' mental illnesses in the DDA definition should be reviewed and consulted on to identify the advantages and disadvantages of removing the limitation. (3.6)

In order to bring into coverage severe but short-term conditions, such as some heart attacks, strokes or depression, consideration should be given to 'long-term' being removed from the definition with the concept of 'substantial' covering both duration and severity of adverse effects. We recognise that the wider implications of this proposal will need to be explored. In particular, regulations or guidance must make clear that such conditions should not be covered, unless the chance of recurrence is significantly increased by their having occurred once, to avoid including temporary or readily curable conditions, which may nevertheless have a severe short-term effect (such as broken legs generally do). (3.9)

The current DDA position on limited exclusion of particular conditions from being disabilities should continue but the DRC and the Equality Commission for Northern Ireland should keep this under review. (3.11)

The DRC and the Equality Commission for Northern Ireland should monitor the definition of disability and review it to see whether further improvements can be made. (3.12)

3.18 Government response:

The DRC is monitoring the way in which the DDA is operating in practice and we have asked it to address the issues raised by the Task Force concerning the definition of disability as part of its ongoing duty to review the DDA. We have no current plans to amend the definition of disability, other than the additional coverage of some people with HIV and cancer. We will consider carefully any recommendations for further legislative change which the DRC makes and we will consult widely on any changes that we may propose.

3.19 Task Force recommendation 3.10:

At this time, genetic pre-dispositions to impairments should not be considered a disability under the DDA. The DRC and the Equality Commission for Northern Ireland should work closely with the Government Department or Agency assigned responsibility for following up the Human Genetics Advisory Commission (HGAC) report and keep this issue under review. (3.10)

3.20 Government response:

We will consider carefully advice from the Human Genetics Commission which has been consulting on the storage, protection and use of genetic information and will be giving advice to the Government before the end of 2001. The Department for Education and Employment (DfEE), as the lead department on genetic discrimination in employment and with responsibility for the DDA, will also take into account the views of the DRC and the Health and Safety Executive (HSE).

EMPLOYMENT

Summary of Task Force recommendations

- 3.21 The DDA protects disabled people against discrimination by employers in all aspects of employment eg. recruitment, training, promotion and dismissal, but excludes employers with fewer than 15 employees and some forms of employment. Employers cannot treat a disabled person less favourably than someone else for a reason relating to the disability unless they can justify it. Employers also have to make reasonable adjustments if their employment arrangements or premises substantially disadvantage a disabled person compared with non-disabled people, unless they can justify not doing so. Other organisations and individuals may also have duties under the employment provisions - Part II of the DDA. The employment provisions are described in more detail in Annex 2.
- 3.22 The Task Force felt that the main elements of the DDA should continue, but suggested a review over time of the justification for less favourable treatment and improvements in what the employment Code of Practice says on harassment. It identified a range of bodies, occupations and posts which should be covered by the DDA which are currently either specifically excluded or simply not covered because they are not employers or employees. Most of these are already covered by the Sex Discrimination Act (SDA). It also felt that employers of all sizes, and anyone who might become an employer, should be covered except for private households. The SDA covers all employers and anyone who might be recruiting their first employee, including private households.
- 3.23 The Task Force suggested a number of other ways in which the DDA might be amended to reflect provisions, or planned provisions, in the SDA and made some recommendations about reasonable adjustments, occupational pension schemes, group insurance, handling complaints of discrimination and the way employers can ask questions about disability.

3.24 Finally, the Task Force proposed the introduction of a public sector duty to promote equalisation of opportunity for disabled people and changes to the law to help promote the employment of disabled people by local authorities. It also made suggestions about encouraging promotion of equalisation of opportunity, and providing guidance, for the private and voluntary sectors.

3.25 **Task Force recommendations 5.1 – 5.7, 5.30 and 5.39:**

The DDA's approach to employer defences for less favourable treatment should continue at present. It should be monitored and, if there is evidence that the justification test is not operating fairly, then the Government should consider the issue and consult on appropriate proposals to remedy any problems. (5.1)

The DDA employment provisions' justification for failure to make a reasonable adjustment should be removed. The Employment Code of Practice should be revised to include examples of when it may be reasonable not to make an adjustment and the factors to be taken into account in assessing reasonableness should be expanded to reflect valid justifications. (5.2)

The DDA's approach to allowing employers to appoint the best person for a job, once they have made any reasonable adjustment, should continue in civil rights legislation. (5.3)

The DDA's approach to the coverage of employment, trade organisations and employment agencies should continue in civil rights legislation. (5.4)

The DDA's approach to an employer's duty to make reasonable adjustments and factors to be considered in assessing reasonableness should continue in civil rights legislation. (5.5)

The DDA's approach to listing examples of steps to consider in making reasonable adjustments should continue with the addition of two more examples: training for other persons in disability issues or in the use of equipment; and providing external support or access to external support. (5.6)

The DDA's approach to an employer's knowledge of disability and confidentiality of medical information should continue. (5.7)

The DDA's approach to protection from harassment in employment should continue. Any revised Employment Code of Practice should include stronger references to this issue with clear examples. (5.30)

The DDA's approach to leases, building regulations and requirements for statutory consent for employers making reasonable adjustments to premises should continue. Access improvements which an employer chooses to make should not be unreasonably refused by a landlord. (5.39)

3.26 **Government response:**

When legislative time allows, we will:

- remove the justification for failure to make a reasonable adjustment because this defence can be entirely covered by the need for adjustments only to be reasonable; and*
- add training for other persons in disability issues or in the use of equipment, and providing support or access to external support, as other examples of adjustments. This will better illustrate the issue for employers.*

3.27 *We have asked the DRC to take account of these changes when they revise the Employment Code of Practice and to ensure that the section in the Code on harassment is reviewed and strengthened if necessary.*

3.28 *The DRC is monitoring the way in which the DDA is operating in practice and we have asked it to address the specific issue of justification as part of its ongoing duty to review the DDA. We will consider carefully any recommendations for further legislative change which the DRC makes and we will consult widely on any changes that we may propose.*

3.29 *The Task Force also made a recommendation about landlords. At the moment, landlords cannot unreasonably refuse employers permission to make reasonable adjustments to premises under the DDA. However, they can refuse permission for changes to premises which an employer only chooses to make. We have decided not to change this because it is likely to be difficult deciding whether an employer wants to make access*

changes to help disabled employees or for some other reason. In addition, in our view, landlords are increasingly unlikely to refuse reasonable requests from employers to changes which will improve their property by making it more accessible to disabled people.

3.30 Task Force recommendations 5.8 – 5.11:

All disabled employees should have civil rights in relation to employment, irrespective of the size of the business. The threshold should be lowered from 15 to two employees. (5.8)

Future civil rights legislation should allow coverage of both businesses with one employee and businesses seeking to recruit their first employee. (5.9)

Employment in private households should be exempt from future civil rights legislation. (5.10)

In calculating the number of employees, the SDA approach to associated companies should be adopted. (5.11)

3.31 Government response:

We will, when legislative time allows, ensure that all small employers and prospective employers are covered by Part II of the DDA. By legislating in this way, we do not need to define what is meant by associated companies. We will add private households because they are covered by the SDA (which has a defence for the employer in relation to potential unlawful discrimination that the person's sex is a genuine occupational qualification). The size of employers, and the resources available to them, would be taken into account when it comes to making reasonable adjustments. That is how 'reasonableness' works.

Practicability and resources are two particular factors which the Act requires to be taken into account. Private households, like any employer, would only need to do what is reasonable and would be able to justify treating disabled people less favourably than others if appropriate.

3.32 *The DRC has proposed that these changes take effect by 2002. We do not believe that it is practicable to end the exemption as soon as that. However, in October 2004, service providers of all sizes have to comply with the final phase of their duties under the DDA for their disabled customers. Ending the employment exemption in 2004, therefore, would mean businesses which are both service providers and employers would have to consider all aspects of how they treat disabled people, whether they are employees or customers, to the same timescale. We agree with the DRC that it is appropriate to end the small employer exemption and we propose to do so by 2004 which would ensure a joined-up approach with benefits to business and disabled people. We are consulting on what help small employers might need when we do this. The DRC, the Small Business Service and the DfEE's telephone advice line Equality Direct will all work together to ensure that effective advice and information are available at the right time.*

3.33 **Task Force recommendations 5.12, 5.15 – 5.19:**

Business partners should be covered in civil rights legislation on employment but with small partnerships not initially having a duty to make reasonable adjustments. Further consideration should be given as to how the reasonable adjustment duty should operate. (5.12)

The employment provisions of civil rights legislation should cover police and prison officers and fire-fighters. (5.15)

The employment provisions of civil rights legislation should cover the Armed Forces whilst recognising the need for adequate safeguards to maintain operational effectiveness. (5.16)

The employment provisions of civil rights legislation should cover barristers and advocates with enforcement through Employment Tribunals. (5.17)

Local councils should be placed under a duty not to discriminate against disabled councillors, including a duty to make reasonable adjustment. (5.18)

The territorial coverage of civil rights legislation on employment should match that of the RRA. (5.19)

3.34 **Government response:**

When legislative time allows, we will ensure that the following are protected from disability discrimination:

- partners in partnerships of any size, as well as prospective partners. We propose to ensure that disabled partners contribute fairly to the cost of any adjustments they might need;*
- police officers (including the Ministry of Defence Police, British Transport Police, Royal Parks Constabulary and United Kingdom Atomic Energy Authority Constabulary);*
- prison officers;*
- fire-fighters (including the Ministry of Defence Fire Service);*
- barristers in chambers and barristers' pupils and, in Scotland, advocates' pupils; we will also ensure that complaints can be made to Employment Tribunals (unlike the SDA where they are made through the county courts and, in Scotland, the Sheriff Court);*
- members of county, district and London borough councils;*
- employees on board a ship, aeroplane or hovercraft registered in Great Britain (unless the employee does his/her work wholly outside Great Britain) by ensuring that the DDA, has similar territorial coverage to the SDA.*

3.35 *It is important that police officers, prison officers and fire-fighters remain operationally effective. This will be possible because the DDA means that employers do not have to take anyone on who is not capable of doing the job, even with a reasonable adjustment.*

3.36 *We have asked the DRC to issue guidance about the implications of the DDA in all of these areas, including the fact that only adjustments that are reasonable need be made, and to take account of them when revising the Employment Code of Practice following legislation.*

3.37 *We have decided not to cover members of the Armed Forces because **all** service personnel need to be combat effective in order to meet an obligation for world-wide operational liability. Decisions on military health and fitness standards are for the Ministry of Defence and not for*

Employment Tribunals. The Armed Forces will discuss with the DRC whether there is greater scope for the Forces, as a matter of good practice, to retain personnel who become disabled, subject to maintaining operational effectiveness.

3.38 Task Force recommendation 5.20:

The DDA's approach to former employees should follow whatever changes are made to the SDA. (5.20)

3.39 Government response:

We will, when legislative time allows, amend the DDA to follow the changes in sex discrimination legislation for former employees proposed in a consultation document published by DfEE on 11 December 2000 ("Towards Equal Pay for Women"). This proposed that Employment Tribunals would be able to consider former employees' claims of discrimination taking place within six months of the end of employment, where the discrimination has arisen directly out of that employment. It also proposed that tribunals would be able to consider claims about discrimination after this period if it was just and equitable to do so.

3.40 *We are considering a set of factors which can be provided for a tribunal to take into account when considering the question of justice and equity. These might include:*

- length of time since employment;*
- nature of discrimination; and*
- alleged detriment.*

3.41 Task Force recommendations 5.21 and 5.22:

In principle, voluntary workers should be covered by civil rights legislation. However, in recognition of the diversity of voluntary workers and organisations that engage them, a good practice approach should be

adopted. Organisations engaging volunteers should be consulted on the preparation of guidance and a power taken in civil rights legislation to bring volunteers into coverage through regulations. (5.21)

Trustees of voluntary organisations and charities should be included in the good practice approach to volunteers in recommendation 5.21. (5.22)

3.42 Government response:

We agreed, in our Equality Statement in November 1999, to a Code of Practice on tackling discrimination against volunteers. We have asked the DRC to work with the other Equality Commissions to produce guidance on voluntary workers and trustees of voluntary organisations and charities. When legislative time allows, we will take the power to bring a range of voluntary workers into the DDA, but will only use that power if it proves necessary.

3.43 Task Force recommendations 5.23 and 6.13:

The public sector should have a duty to promote equalisation of opportunities for disabled people in employment. There should be further discussion on the details of this duty, recognising the diversity of public sector organisations. The public sector's purchasing power should be used to promote compliance among contractors and suppliers to the public sector. (5.23)

The public sector should be under a duty to promote the equalisation of opportunities for disabled people in the provision of services. Any duties on the public sector duty in civil rights legislation on disability should parallel those in sex and race legislation. The production of action plans should form an element of the public sector duties and should be encouraged in the private sector. There should be further public discussion on the most effective mechanism for achieving equalisation of opportunities for disabled people, recognising the diversity of public sector organisations. (6.13)

3.44 **Government response:**

We agreed, in our Equality Statement in November 1999, that public bodies must take the lead in promoting equal opportunities and we will put this obligation in legislation as soon as Parliamentary time permits (such a duty already exists for public authorities in Northern Ireland). We will take into account the approach adopted in the Race Relations (Amendment) Act 2000. This places a duty on specified public bodies, when carrying out their functions, to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups. Secondary legislation will set out specific duties for key public bodies. The Home Office has published a separate consultation document on the duty to promote race equality.

3.45 *We will seek to mirror this approach as far as practicable to ensure consistency and clarity across the different strands of equality law, whilst also ensuring that public authorities assess and provide help tailored to disabled people's diverse needs and circumstances. We will consult separately on any secondary legislation needed to implement parts of the duty. Enforcement will be through the DRC. We have already asked the DRC to consider, with the other Equality Commissions, the scope for introducing voluntary guidance or mechanisms in advance of legislation. This will help guide public bodies in the lead up to such obligations becoming law.*

3.46 **Task Force recommendation 5.24:**

The private sector should be encouraged to adopt a proactive approach to the equalisation of employment opportunities for disabled people. The DRC and the Equality Commission for Northern Ireland should play the central role in developing best practice in this area. (5.24)

3.47 Government response:

We have asked the DRC to develop guidance to encourage the private sector to adopt a proactive approach to the equalisation of employment opportunities for disabled people, in collaboration with the other Equality Commissions and relevant voluntary bodies.

3.48 Task Force recommendation 5.25:

The scope of local government legislation should be broadened, as necessary, to allow more positive action schemes for disabled people by local authority employers. (5.25)

3.49 Government response:

We wish to consult further on whether to allow more positive action schemes for disabled people by local authority employers. At the moment, local authorities have to appoint on merit, in accordance with the Local Government and Housing Act 1989. One option could be to allow local authorities to interview only disabled people who apply, and can meet the relevant competencies (with a reasonable adjustment if necessary), then to choose the best candidate amongst them, without interviewing non-disabled people who might apply. This would mean that local authorities could positively discriminate, in this one respect, in favour of disabled people (as private sector employers are able to do more generally). However, disabled people would still have to be capable of doing the job, taking into account any necessary reasonable adjustments.

3.50 Task Force recommendation 5.26 – 29:

Employment tribunals should be able to order re-instatement or re-engagement in cases brought under the DDA and future civil rights legislation. (5.26)

The time limit for issuing a questionnaire once a complaint has been made to a tribunal should be extended to 4 weeks. Respondents should be required to reply to a questionnaire within 8 weeks of its date of issue.

Where they do not, the tribunal should be required to draw an inference that the respondents are refusing to reply, or any other inference which the tribunal believes to be appropriate. (5.27)

Policy and practice in employment tribunals should ensure that, wherever possible, cases of disability discrimination should be heard by a panel including at least one person with disability expertise. (5.28)

Employment tribunals should have a power to make recommendations regarding the future conduct of the respondent and mechanisms for the DRC to enforce this should be developed. (5.29)

3.51 **Government response:**

We will ensure, when legislative time allows, that:

- *Employment Tribunals can order re-instatement or re-engagement in cases brought under the employment provisions of the DDA (and the Sex Discrimination Act and Race Relations Act too). This would bring the DDA in line with the unfair dismissal provisions under the Employment Rights Act and could increase the chances of disabled people returning to employment rather than being awarded compensation. This would replace the tribunals' powers under the DDA simply to make recommendations on re-instatement or re-engagement;*
- *the time limit for issuing a questionnaire by disabled people will be extended to 4 weeks to help applicants understand more fully the implications of using it and require that respondents reply within 8 weeks of its date of issue to avoid unnecessary delays in the system;*
- *tribunals will be required to draw inferences about a respondent's failure to reply to a questionnaire in line with proposed changes to the RRA.*

3.52 *We have put to the Presidents of the independent Employment Tribunals the recommendation that wherever possible cases of disability discrimination should be heard by a panel including a person with disability experience. They have explained that Employment Tribunal*

members receive training in all aspects of the work in which they are involved, including disability discrimination, and that such training covers how to carry out their judicial duties of listening to the evidence, finding the facts which have been established and applying these facts in reaching a proper decision. In the circumstances, we do not accept the Task Force's recommendation but have asked the DRC to consider whether more needs to be done to meet the Task Force's concerns.

3.53 *Tribunals can already make recommendations relating to the future conduct of the employer where that conduct could affect the employer's treatment of the individual under the complaint. We do not accept that tribunals should have an investigatory power to allow them to gather evidence unconnected with an individual's complaint.*

3.54 **Task Force recommendation 5.31:**

The examples of adjustments in the DDA are adequate to meet the purposes of 'disability leave'. There should, however, be more emphasis on this issue in guidance, informed by the Government's work on improving retention and rehabilitation. (5.31)

3.55 **Government response:**

We are discussing with the DRC what guidance might be necessary to make clear what the DDA means for the retention and rehabilitation of disabled people and to provide information on particular practical steps we are taking to help.

3.56 **Task Force recommendations 5.32 and 5.33:**

Disability or disability-related enquiries before a job is offered should be permitted only in limited circumstances:

- *when inviting someone for interview or to take a selection test, employers could ask if someone had a disability that may require reasonable adjustments to the selection process; and*

- *when interviewing, employers would be allowed to ask job related questions, including if someone had a disability which might mean a reasonable adjustment would be required.*

Further consideration should be given to other circumstances where such enquiries should be permitted, for instance, for monitoring purposes, with rules on confidentiality of information obtained, and in the particular case of the guaranteed interview scheme. (5.32)

Except for the circumstances in recommendation 5.32, disability or disability-related inquiries should only take place, where justified, when a job offer, conditional on passing a medical or other test, has been made. (5.33)

3.57 Government response:

We do not accept the need to change the DDA to limit disability or disability-related enquiries before a job is offered. We consider the risks for employers, particularly small employers, of simply asking the wrong question at the wrong time – perhaps for what they see as good reasons – are too great. We have asked the DRC to strengthen the Employment Code of Practice to give clear guidance to employers about the risks they take if they do not treat disabled people fairly under the law, supported by good practice guidance on how to treat applications from disabled people. In particular, the Code of Practice will need to take account of the eventual shift in the burden of proof to the employer in an Employment Tribunal case. This shift will follow that to be made to the SDA as proposed in a consultation document published on 11 December (“Towards Equal Pay for Women”), and in line with the commitment in our November 1999 Equality Statement that we will, where practicable, harmonise the provisions of the Race Relations, Sex Discrimination and Disability Discrimination Acts.

3.58 **Task Force recommendations 5.36 and 5.37:**

Coverage of insured benefits provided by an occupational pension scheme by Section 17 of the DDA should be clarified in future guidance to prevent confusion with the provision of group insurance under Section 18 of the DDA. (5.36)

In principle, in line with arrangements for Equal Pay cases, complaints of disability discrimination against trustees and managers of occupational pension schemes should be heard by employment tribunals. (5.37)

3.59 **Government response:**

We have asked the DRC to clarify the DDA's coverage of insured benefits provided by an occupational pension scheme and the provision of group insurance in any relevant guidance that they issue.

3.60 *We will amend the DDA, when legislative times allows, so that disabled people have the right to complain to tribunals about discrimination by managers or trustees of a scheme bringing it into line with the Equal Pay Act. This will improve the current position whereby disabled people would normally complain to the Pensions Ombudsman who has more limited powers.*

3.61 **Task Force recommendation 5.40:**

We recognise that some employers have concerns about the health and safety implications of employing disabled people. We recommend that examples which illustrate these concerns should be investigated and that consideration should be given as to how the concerns might best be addressed (without risking employers becoming more concerned as a result). (5.40)

3.62 **Government response:**

We have asked the DRC and Health and Safety Executive (HSE) to continue working together to identify employers' concerns about the health and safety implications of employing disabled people and try to address them.

3.63 Task Force recommendation 5.41:

Work is taken forward to explore ways of employers having to anticipate the need for adjustments rather than awaiting contact with individual employees and job applicants before considering and making adjustments. (5.41)

3.64 Government response:

We have asked the DRC to produce good practice advice on ways in which employers can anticipate the need for adjustments, exploring the issue in partnership with employers and disability organisations.

3.65 Task Force recommendation 5.42:

For consistency with the SDA and RRA, the provisions relating to instructions to discriminate and pressure to discriminate should be included in civil rights legislation. (5.42)

3.66 Government response:

As part of the commitment in our Equality Statement to align the powers of the Equality Commissions where practicable, we will, when legislative time allows, make instructions to discriminate and pressure to discriminate also unlawful under the DDA. Only the Equality Commissions can take action over such unlawful acts and we will ensure that the DRC can take action in similar situations.

3.67 Task Force recommendation 5.13, 5.14, 5.34, 5.35 and 5.38:

Qualifying bodies should be covered in civil rights legislation on employment with careful consideration being given as to what adjustments they might be expected to make (for example, they should not be expected to make adjustments that altered requirements essential to the qualification). (5.13)

Statutory office holders should be covered by civil rights legislation on employment with further consideration as to where responsibility for reasonable adjustments should rest. (5.14)

Occupational pension schemes should be required to offer equal access to scheme membership for disabled people when starting their employment. Restricted access to certain benefits should be permitted for disabled people choosing to join a scheme later in their employment or re-joining a scheme, but only if restricted access to benefits is strictly limited to a specific pre-existing impairment or condition; such restrictions can be justified, eg. based on relevant and reliable information such as up-to-date actuarial or statistical data; and schemes regularly review any restrictions or impose time limits on them. (5.34)

Occupational pension schemes should have to make 'reasonable adjustments' to their documentation and information. (5.35)

Changes should be made to legislation to ensure that an insurer offering group insurance will only be liable for his own acts of discrimination and not those performed by an employer as his agent. (The employer's responsibilities would remain the same.) (5.38)

3.68 Government response:

We wish to give further consideration to the Task Force recommendations about qualifying bodies, statutory office holders, occupational pension schemes and group insurance schemes in the light of the Employment Directive under Article 13 of the EC Treaty (and, of course, in relation to costs and the regulatory impact). This Directive covers, broadly, employment, occupation and vocational training. It requires Member States to introduce legislation protecting people from discrimination on the following grounds: disability, age, religion and belief and sexual orientation. The Directive was only agreed in October 2000 and we are still considering its detailed legal implications. However, it does seem clear that the Task Force anticipated the most significant changes to the DDA that would be necessary following the Directive. We will consult later on issues in the Directive and any further issues relating to disability will be covered then. We think that, given our agreement to the majority of the Task Force's recommendations and the success of our negotiations, any further changes to the DDA would be comparatively minor.

ACCESS TO GOODS, FACILITIES AND SERVICES AND SALE, LETTING AND MANAGEMENT OF PREMISES

Summary of Task Force recommendations

- 3.69 Part III of the DDA protects disabled people against discrimination by those providing goods, facilities or services to the public and by those who sell, let or manage premises. Certain educational services and the use of any means of transport are excluded from Part III. Service providers must not treat disabled people less favourably for a reason related to their disability without justification. Since 1 October 1999, service providers have also had a duty to make reasonable adjustments to enable disabled people to use their services. This may include: altering policies, practices or procedures which exclude disabled people; providing auxiliary aids and services; or providing the service in a reasonable alternative way where a physical feature prevents access. From 1 October 2004, service providers will have to consider making reasonable adjustments to the physical features of their premises if they continue to prevent access to services. Failure to make reasonable adjustments can be justified only in limited circumstances. These provisions are explained in more detail in Annex 2.
- 3.70 The Task Force recognised that considering changes to Part III was complicated because it had not been tested greatly in the courts, and aspects of the duty of reasonable adjustment had only recently come into force with a significant element yet to be implemented. It accepted that the broad thrust of Part III should continue, and recommended that the DRC should monitor the operation of its provisions making recommendations for change as appropriate. The Task Force itself recommended various changes including: coverage of private clubs; the inclusion in the Code of Practice of access standards; and extension of aspects of the duty of reasonable adjustment to those who let or manage premises. As in Part II, the Task Force recommended that the public sector should be under a duty to promote the equalisation of opportunities for disabled people in the provision of services. The Task Force also recommended that functions of public authorities not already covered by the DDA should be brought into its

scope subject to further consideration of the implications of the duty to make reasonable adjustments.

3.71 **Task Force recommendations 6.1, 6.2, 6.4 – 6.10, 6.14 and 6.21 – 6.24:**

In defining discrimination in access to goods and services, the DDA categories of less favourable treatment and adjustments should continue. (6.1)

The DDA's approach to a service provider's duty to make reasonable adjustments and the factors to be considered in assessing reasonableness should continue in civil rights legislation. However, the factors contained in the Code of Practice should be placed in legislation. (6.2)

The key principles in the DDA duty to make reasonable adjustments should continue in civil rights legislation: it is a duty to disabled people at large; it is an anticipatory duty; it is continuous and evolving over time; and it is enforceable when an individual has been discriminated against. In future civil rights legislation, these rights and duties should be expressed in clearer terms. (6.4)

The trigger for the duty on service providers to make reasonable adjustments has not been tested in the courts. The courts' interpretation of the level of the trigger should be monitored by the DRC and the Equality Commission for Northern Ireland and, if it is interpreted as high, it should be lowered to a more central level. (6.5)

The limited, specific justifications for less favourable treatment in the DDA access to services provisions should continue. There should be better guidance to service providers on the appropriate use of the 'health and safety' and 'greater expense' justifications. The DRC and the Equality Commission for Northern Ireland should monitor that the justifications are operating fairly for both disabled people and service providers and, if not, the Government should use regulation making powers to amend the list. (6.6)

Justifications for failure to make reasonable adjustments should be removed and the factors to be taken into account in assessing reasonableness should be expanded to reflect valid justifications. (6.7)

As the test for service providers seeking to justify less favourable treatment has not been tested in the courts, the DRC and the Equality Commission for Northern Ireland should keep case law under review and make recommendations if there is evidence that the test is not operating fairly for disabled people or service providers. Any recommendations should balance the interests of service providers and disabled people and protect service providers acting in good faith but without giving undue weight to their opinion. (6.8)

Achieving the most integrated approach to the provision of services as is reasonably possible should be society's aim. We welcome the Government's request to the National Disability Council to promote the benefits of inclusive services in its preparation of the Code of Practice on the 2004 duties. The DRC should review the effectiveness of this good practice approach and consider whether legislation is necessary. (6.9)

Private clubs should be covered by civil rights legislation but the definition of a club should not extend to private social arrangements. (6.10)

Voluntary sector service providers should continue to be treated in the same way as those in the private sector. The DRC and the Equality Commission for Northern Ireland should raise awareness amongst voluntary sector service providers of their duties under disability legislation. (6.14)

The DDA's approach to re-instatement of alterations made to leased premises should continue. Landlords should not unreasonably withhold consent to service providers seeking to make their leased premises more accessible to disabled people. (6.21)

The DRC, in carrying out its duty to keep disability legislation and case law under review, should make recommendations to Government if the operation of the provisions identified by the National Disability Council causes difficulties. [Note: These are technical issues on the interpretation of Part III of the DDA (for example, what would count as the provision of a service and the identity of a service provider in particular circumstances).] (6.22)

The DDA exemption for the private disposal of premises should continue in civil rights legislation. (6.23)

The small dwellings exemption should continue in civil rights legislation with a reserve power to lower the limit of 'six persons' as necessary. (6.24)

3.72 Government response:

We will, when legislative time allows, create a power to reduce to below six persons the exemption figure for small dwellings in the private disposal of premises provisions, and will use that power if it is shown to be necessary.

3.73 *We have asked the DRC to address the following issues once the provisions in Part III of the DDA are fully in force as part of its ongoing duty to review the DDA:*

- whether the inclusion of reasonableness factors in the Code of Practice instead of in the legislation is causing problems, bearing in mind that the Part III duty of reasonable adjustment has only been in place a short time and there is currently no compelling evidence of difficulties;*
- whether the complexity of the legislation has caused any problems and, if necessary, to recommend ways in which it might be simplified, whilst retaining its underpinning principles;*
- the operation of the trigger for when service providers have to make reasonable adjustments;*
- whether the justifications for less favourable treatment are operating fairly for both disabled people and service providers, bearing in mind the further guidance to be provided in the revised Code of Practice;*
- whether the justifications for failure to make reasonable adjustments should be removed and the factors to be taken into account in assessing reasonableness expanded to reflect valid justifications;*

- *the operation of the test for service providers seeking to justify less favourable treatment to ensure that it is not working to the detriment of disabled people or service providers;*
- *whether the current approach in Part III helps provide as integrated an approach to provision of services for disabled people as is reasonable so that services can be accessed by disabled people in the same environment and in the same way as non-disabled people;*
- *developing a voluntary approach instead of legislating to reduce any problems disabled people may face in joining private clubs, including the making of reasonable adjustments, bearing in mind any information on this from a current DRC/DfEE research project;*
- *raising awareness amongst voluntary sector service providers of their duties under Part III of the DDA;*
- *the operation of provisions identified by the National Disability Council concerning certain technical issues on the interpretation of Part III of the DDA; and*
- *the operation of the exemptions for the private disposal of premises and small dwellings.*

3.74 *We will consider carefully any recommendations for further legislative change which the DRC makes and we will consult widely on any changes that we agree are necessary.*

3.75 *In producing a revised Code of Practice on Part III, the DRC has already provided fuller guidance on Part III justifications, including those relating to 'health and safety' and 'greater expense'. We have asked the DRC to review other guidance in the light of its monitoring of the justifications and developing case law.*

3.76 **Task Force Recommendation 6.3:**

Consideration should be given to the Code of Practice on the 2004 duties including access standards, which would give a level of certainty to service providers on meeting their legal obligations. (6.3)

3.77 Government response:

We have considered whether the 2004 Code of Practice should have access standards. However, it is not possible to include mandatory access standards in the Code under the existing powers in the DDA. Nor are we convinced that suitable standards can be developed to cater for the wide range of circumstances covered by Part III. Nevertheless, we intend to regulate to provide that in specified circumstances physical features of a service provider's premises will not have to be removed or altered. This will be explained in the DRC's revised Code. It will help provide an extra degree of certainty for service providers. In addition, a review of the Building Regulations is underway. A new British Standard on access for disabled people (BS 8300 replacing standard BS 5810) is also nearing completion. The first part of the new standard, dealing with the external surrounds of buildings is expected to be published in the spring of 2001. A second part dealing with facilities inside buildings will follow later in 2001.

3.78 Task Force recommendation 6.12:

In principle, civil rights legislation should extend to all functions of public authorities but the Government needs to give careful thought to what the implications of a duty to make reasonable adjustments would mean in practice. (6.12)

3.79 Government response:

In our response to the Stephen Lawrence Inquiry report we agreed to strengthen the Race Relations Act by extending it to public functions not previously covered by the Act. The Race Relations (Amendment) Act 2000 has done that. In our Equality Statement in November 1999, we also committed to taking similar action in respect of the DDA, when legislative time allows. We are consulting on how the DDA might be extended to cover other functions of public authorities.

3.80 **Task Force recommendation 6.19:**

Insurance services should continue to have special provisions in civil rights legislation. These provisions should be in secondary legislation to allow them to be amended in response to changing circumstances. The DRC and the Equality Commission for Northern Ireland should monitor the special treatment of insurance and work with the Human Genetics Commission and the Genetic and Insurance Committee in this area to safeguard the interests of people with genetic pre-dispositions to conditions who are likely to become disabled. (6.19)

3.81 **Government response:**

We will consider carefully advice from the Human Genetics Commission (HGC) and the DRC. The HGC has been consulting on the storage, protection and use of genetic information and will be advising Government before the end of 2001. The HGC is also planning a review in the spring of 2001 on developments since the former Human Genetics Advisory Commission published the report “The implications of genetic testing for insurance” in 1997.

3.82 **Task Force recommendations 6.25 – 6.27:**

In civil rights legislation, those covered by the DDA premises provisions should be under a duty to make reasonable adjustments to their policies, practices and procedures, in the same way as service providers. (6.25)

In civil rights legislation, those disposing of premises to the public should continue to be covered by the duty under the DDA access to service provisions to provide auxiliary aids and services in the selling and letting of premises. This duty should extend to any communications between those disposing of premises and the lessee once the premises have been let. (6.26)

There should be no duty on those disposing of premises to make adjustments to the physical features of the premises. However, in civil rights legislation, they should not be allowed to withhold consent unreasonably for

a disabled person making changes to the physical features of the premises. There should be a wide consultation on the factors in determining when it would be reasonable and unreasonable for a landlord to withhold consent, with the aim of achieving the right balance between the rights of the owner of the premises and the disabled person. (6.27)

3.83 *Government response:*

We agree in principle to extending to those who let or manage premises duties relating to reasonable adjustments to policies, practices and procedures, and the provision of auxiliary aids and services. We are consulting on the factors which might determine reasonableness when a landlord is asked by a disabled tenant to consent to changes to physical features.

TACKLING BARRIERS IN THE PROVISION OF SERVICES AND EQUIPMENT

Summary of Task Force recommendations

3.84 Some disabled people receive services and equipment from one or more of a wide range of agencies, according to the situation in which the need arises. The Task Force recognised that agencies work in partnership at a local level to co-ordinate services. However, there are structural barriers to providing a seamless service, such as the responsibility to manage and account for individual budgets.

3.85 The provision of equipment is a particularly complex area with interfaces between health and social services, education and employment agencies and the voluntary sector.

3.86 ***Task Force recommendations 10.17 and 10.18:***

Barriers to joint working in the provision of services and support should be tackled. Particular attention should be paid to points of transition such as when someone moves from education to employment. Improving working practices and providing good practice guidance on joint working should be

taken forward, building on the current interfaces between services that already exist. The first stage should be to identify the barriers - both legislative and budgetary - prior to reviewing the scope for change in this area. (10.17)

Where a person could helpfully retain equipment for use when passing from one provider to another, for example, equipment provided by a school being retained by the disabled person for use at a college or university, barriers to this should be tackled. Barriers to equipment being transported between authorities and different parts of the country should also be removed. This would be of potential benefit to both the providers of services and the individual. (10.18)

3.87 Government response:

We agree on the importance of improving joint working and coordination between the various agencies providing support and services to disabled people. This is important at all levels from central Government Departments through to local public sector agencies delivering services on the ground. The involvement of the voluntary sector, and of service users themselves, in the design, development and delivery of services is also of central importance. The provision of equipment is a particularly complex area with interfaces between health, social services, education and employment agencies.

3.88 *We announced in the NHS Plan (June 2000) our intention that health and local authorities work together to achieve single, integrated community equipment services by 2004. We expect authorities to consider the use of Health Act Partnership Flexibilities to do so. Over the next 3 years we will expect the NHS to spend an additional £105 million to improve community equipment services for disabled people of all ages and we aim to increase by 50% the number of people able to benefit from these services. To help implement the modernisation of community equipment services, the Department of Health has formed an external reference group of interested bodies to advise it by representing the views of relevant stakeholders, including users of services.*

3.89 *On a broader front, in September 2000, a cross-Departmental group of senior officials set up a project to consider the wider interface issues between health, social and other local authority services, employment and education in more detail. This wider project will take account of the work on integrated equipment services referred to above. The first part of this wider project is complete: a major seminar of disabled people has provided a practical insight into the problems. More detailed research on disabled people's experience of services and equipment is being developed. The outcome will be recommendations for improvements.*

3.90 *We are consulting to gain further information on where barriers exist, and how they can be removed.*



Annex 1

Action Taken for Disabled People as a Result of the Task Force's Report

This Annex offers the Government's final response on all those recommendations which are not specifically covered in Section 3 of this document. In each case the numbered Task Force recommendation is given, followed by the Government response. In many cases, action has been completed whilst in others further work may be required by the leading Government Departments in order to take account of the Task Force's proposals in their policies, guidance and legislation. For example, and as explained in the Transport Section below, the DETR proposes to issue a separate consultation document on the Task Force's legislative transport recommendations.

The Scottish Parliament is responsible for taking forward many of the recommendations, in Scotland. The Scottish Executive published its response to the Task Force in January 2001, setting out how recommendations in devolved areas will be taken forward in Scotland. A copy can be obtained from the Scottish Executive Equality Unit, 2nd Floor West, St. Andrew's House, Edinburgh, EH1 3DG (Tel: 0131 244 2531).

EDUCATION

Overview of Government response to Task Force recommendations on education

Section 2 of this response (paragraph 2.7) explains that the Task Force's recommendations on civil rights in education for disabled people are being taken forward in England and Wales in a Special Educational Needs and Disability Bill. Proposals for the scope and content of the Bill were widely consulted upon in March–April 2000. Those recommendations which are not covered by the Bill (ie. 4.3, 4.9 and 4.16) are updated below.

As far as the Bill is concerned, the Special Educational Needs provisions:

- strengthen the right of children with SEN to be educated in mainstream (as opposed to special) schools;
- require LEAs to arrange to provide parents of children with SEN with advice and information, and a means of resolving disputes with schools and LEAs;

- require LEAs to comply, within set periods, with orders of the Special Educational Needs Tribunal (SENT) and make other technical changes in support of the SENT appeals process and the process by which a child's needs are assessed;
- require schools to tell parents where they are making special educational provision for their child and allow schools to request a statutory assessment of a pupil's SEN.

The disability provisions place:

- (a) new duties on schools and LEAs (local authorities in Scotland):
 - not to treat disabled pupils less favourably, without justification, than other pupils;
 - to make reasonable adjustments so that disabled pupils are not put at a substantial disadvantage to pupils who are not disabled (except in relation to removing or altering physical features or providing auxiliary aids and services); and
 - (England & Wales only) to plan strategically and make progress in increasing physical accessibility to schools' premises and to the curriculum.
- (b) new duties on further and higher education institutions and LEAs (local authorities in Scotland) in respect of adult education and youth service provision secured by them:
 - not to treat disabled students less favourably, without justification, than other students; and
 - to make reasonable adjustments to ensure that people who are disabled are not put at a substantial disadvantage to people who are not disabled in accessing further, higher and LEA secured education.

The Disability Rights Commission will prepare new Codes of Practice to explain and illustrate the legislation to education providers, disabled people and others and will be able to investigate cases.

Task Force recommendations

- 4.1 The Government should continue to implement the SEN Action Programmes in England and Wales.
- 4.2 In reviewing the statutory framework for inclusion, the Government should strengthen the rights of parents of children with statements of SEN to a mainstream placement, unless they want a special school and a mainstream school would not meet the needs of the child or the wishes of either the parent or child.
- 4.4 Providers of school education should be placed under a statutory duty not to discriminate unfairly against a disabled pupil, for a reason relating to his or her disability, in the provision of education. There should be a defence for acceptable less favourable treatment. The pupil's parents should have a right of redress.
- 4.5 Providers of school education should be placed under a statutory duty to review their policies, practices and procedures and make reasonable adjustments to any that discriminate against disabled pupils for a reason relating to their disability.
- 4.6 Where a policy, practice or procedure places an individual disabled pupil at a substantial disadvantage in comparison with pupils who are not disabled, the provider of school education should be under a statutory duty to make a reasonable adjustment so that it no longer has that effect. The pupil's parents should have a right of redress.
- 4.7 Where a physical feature places an individual disabled pupil at a substantial disadvantage in comparison with pupils who are not disabled, the provider of school education should be under a statutory duty to take reasonable steps to provide education using an alternative method, so that the disabled person is no longer at a substantial disadvantage. The pupil's parents should have a right of redress.
- 4.8 A separate Code of Practice should be produced on school education in relation to the proposed new rights.

- 4.10 Providers of school education should be placed under a statutory duty to plan to increase accessibility for disabled children to schools. This duty should cover both adjustments for physical access, including those for children with sensory impairments, and for access to the curriculum.
- 4.11 The jurisdiction of the SEN Tribunal should be extended to hear cases brought in relation to the new rights in recommendations 4.4, 4.6 and 4.7.
- 4.12 There should be a public consultation, with all those with an interest, on the practical implementation of the new rights proposed.
- 4.13 A separate Section on further, higher and LEA-secured adult education should be included in civil rights legislation to secure comprehensive and enforceable rights for disabled people.
- 4.14 The legislation should have an associated statutory Code of Practice, explaining the new rights.
- 4.15 The Department for Education and Employment should consult with interested parties on improved rights of redress for disabled students in relation to complaints of discrimination, although ultimately the new rights proposed should be exercisable through the courts or tribunals.
- 4.17 The new rights recommended in further, higher and LEA-secured adult education should be applied to the Youth Service.
- 4.18 The exclusion from the DDA access to services provisions of voluntary organisations providing education, social, cultural and recreational activities and facilities for physical education and training should be ended.

Government response:

These are being taken forward in the Special Educational Needs and Disability Bill.

- 4.3 Both the National Curriculum and the Early Learning Goals should continue to reflect the needs of children with SEN. The new opportunities for raising awareness of disability issues in schools within Citizenship and Personal, Social and Health Education should be used to the full.

Government response:

We agree with the Task Force on the importance of reflecting the needs of children with SEN. Wherever it occurs, early education provision is part of the foundation of education for children aged 3-5 years. In May 2000, the Qualifications and Curriculum Authority published detailed curriculum guidance for the foundation stage setting out the early years learning goals. This includes a section on children with SEN and disabilities and offers advice to practitioners on how to respond to individual needs. The emphasis is on removing barriers to learning.

- 4.9 The rights conferred by education legislation for pupils to have their special educational needs identified and met, and in England and Wales, the right to appeal to the Special Educational Needs Tribunal, should be maintained. There should be a review of the measures in the SEN Action Programme to assess their effectiveness in meeting the needs of children with SEN/disability, including access to auxiliary aids and services.

Government response:

We agree with the Task Force that the current rights conferred by education legislation should be maintained. The revised SEN Code of Practice will reaffirm parents' rights to pursue the placement of their choice for their children and reflect the strengthened rights of parents under the Special Educational Needs and Disability Bill. The SEN Tribunal has undergone a Quinquennial Review. This showed clear support for a formal system of resolving disputes between local education authorities and parents. The right of appeal to the SEN tribunal will be maintained and the service to parents improved. There is to be a review of the Programme of Action measures in due course.

- 4.16 Non-legislative measures to improve the rights of disabled people to further and higher education should continue to be developed and implemented to underpin civil rights legislation.

Government response:

The Learning and Skills Council will build equality of opportunity into all of its policies, programmes and actions. The Council will wish to ensure that national equality organisations and local equality networks are included in its partnership and networking arrangements. The Quality Assurance Agency for Higher Education has published a Code of Practice for the assurance of quality of learning opportunities for disabled students in higher education institutions.

ACCESS TO GOODS, SERVICES FACILITIES AND PREMISES

Task Force recommendations

- 6.11 The Company Law Review should consider whether there is, as part of its review, scope for introducing measures that improve communications between companies and disabled shareholders.

Government response:

The Independent Steering Group which is taking forward this review has made a number of provisional recommendations that will improve communications between companies and their shareholders, and which will be of particular benefit to disabled shareholders. These include: allowing companies to communicate financial information by electronic means; requiring quoted companies to publish preliminary financial statements and full annual reports via the Internet; and allowing shareholders to vote via electronic means. Some of the Group's proposals have been implemented by the Companies Act 1985 (Electronic Communications) Order 2000. Others will need to be considered following receipt of the Steering Group's final report in May.

- 6.15 Disability organisations and private sector advocates of design for all look for opportunities to make use of the Department of Trade and Industry's close contact with the manufacturing sector in communicating the benefits of design for all.

Government response:

We agree with this recommendation. The design community is responding to the opportunities offered by the design of products and services for disabled people. A DTI report "A study of the difficulties disabled people have using everyday consumer products" (August 2000) has fuelled the debate further. The DTI will be undertaking further work to produce specific size and strength data. An alliance between the Royal College of Art and Central St. Martins College of Art and Design, together with the Design Council, formed a group to sensitise designers to disability and ageing issues.

- 6.16 The DRC, working with the Department of Trade and Industry, retailers and manufacturers, should promote best practice in relation to the provision of information in accessible formats accompanying manufactured goods.

Government response:

We agree with the Task Force that the DRC, working with the DTI, should promote best practice in relation to the provision of information in accessible formats accompanying manufactured goods, and have asked the Commission to consider this further. The DTI is working with the DRC to identify the best mechanism for reaching the representative sector bodies for retailing and manufacturing.

- 6.17 The Government should gather a comprehensive picture of what is happening at a European level on accessibility standards for products and accompanying information and should examine the opportunities for using European legislation and the DDA in this area, especially as regards the provision of information accompanying manufactured goods in accessible formats.

Government response:

We accept that compiling a comprehensive picture of the state of play across Europe would be informative, and will produce a report during 2001. The British Standards Institute is responsible for taking forward UK input to European standards setting and DTI is represented on the BSI's Consumer Policy Committee. The DTI will address the product standard issue in tandem with the DRC through this Committee.

- 6.18 The Department of Trade and Industry (DTI) should assist disability organisations in making contact with those in the design community with a strong interest in this area, such as the Royal College of Art, the Design Council and Central St. Martins College of Art and Design. DTI should facilitate contacts between disability organisations and the Design Council to discuss possible joint avenues for promotion and celebration of Millennium Products.

Government response:

Please see response to 6.15 above.

- 6.20 We welcome the readiness, in principle, of the Department of Trade and Industry to include in future copyright legislation an exception for visually impaired people. In implementing the final EU Directive through UK law, disability organisations and organisations for copyright owners should be consulted to ensure the right balance between their interests.

Government response:

We welcome the Task Force's support of the Government's approach to the EU Copyright Directive. A consultation paper was issued in mid-February which invited comments from disability organisations and copyright owners. Discussions have also taken place with the RNIB and copyright owners.

- 6.28 The Government should do more to raise awareness amongst owners of premises of the benefits of physical adaptations that increase accessibility for disabled people.

Government response:

We will, working with the DRC, consider the extent to which good practice in this area can be encouraged, and property owners' fear alleviated. On the lettings side, we propose to approach the Royal Institute of Chartered Surveyors to include a relevant statement of duties and good practice in its Management Code for Agents. We are also proposing to raise awareness of disability issues through the series of DETR booklets and other guidance published for landlords and tenants.

- 6.29 The Government should work with the housing sector to promote the inclusion of access information in sales and letting materials.

Government response:

We will consider with the DRC the extent to which good practice can be encouraged. See also recommendation 6.28.

TRAVEL

Overview of Government response to Task Force recommendations on travel

The Task Force commented that:

“Accessible public transport, within the framework of an integrated transport policy, is fundamentally important to delivering our aim of comprehensive civil rights.”

We strongly support this view and have already gone a considerable way to making accessible transport a reality. The Task Force recognised how much progress has been made. Regulations have been in place since the end of 1998

to require all new trains to meet detailed technical standards to guarantee accessibility. Around 250 rail vehicles in service are already DDA compliant. Regulations setting similar standards for buses used on local or scheduled services took effect from 31 December 2000. Similar regulations for licensed taxis are being developed and will be subject to consultation in 2001.

While the DDA has allowed us to take the significant steps detailed above towards delivering accessible transport, the Task Force highlighted a number of omissions, and suggested areas for further refinement of the legislation. We agree with the Task Force's conclusions and intend to undertake a separate detailed consultation on recommendations 7.1, 7.2 and 7.5. The paper will also cover some further improvements to legislation not directly addressed by the Task Force. At the same time we will publish a Regulatory Impact Assessment.

Task Force recommendations

- 7.1 An 'end date' by which all passenger rail vehicles should comply with rail accessibility regulations should be introduced following consultation. Accessibility regulations should be introduced to apply to refurbishment of existing rolling stock. Those requirements should be set after full consultation, which will also need to consider the definition of 'refurbishment' to which the regulations apply. In both cases, we acknowledge that full account will need to be taken of the costs and benefits of the proposals.
- 7.2 The exemption for transport operators from the first and October 1999 phases of the DDA access to services duties should be removed in civil rights legislation.
- 7.5 The DDA access to service provisions should apply to car hire and breakdown recovery services in civil rights legislation.

Government response:

To be covered in a separate DETR consultation.

- 7.3 The DRC should consider with the Disabled Persons Transport Advisory Committee mechanisms for increasing the availability of accessible private hire vehicles, including the carrying of registered assistance dogs. The DDA provisions on requiring accessible vehicles at transport interchanges should be retained in civil rights legislation.

Government response:

DPTAC will be considering mechanisms to make private hire vehicles more accessible in consultation with DRC and industry.

- 7.4 The DDA provisions on taxis carrying guide and hearing dogs should be brought into force as soon as possible.

Government response:

Regulations were introduced at the end of 2000. From 31 March 2001 all licensed taxi drivers in England and Wales will be under a duty to carry guide, hearing and other prescribed assistance dogs in their taxis and to do so free of charge.

- 7.6 We welcome DETR's review of the Orange Badge Scheme with a view to ensuring its continuation as a vital and effective mechanism for enabling disabled motorists to enjoy maximum mobility.

Government response:

The DETR review is due to be completed by the end of 2001.

- 7.7 Local Transport Plans should be placed on a statutory basis and their effectiveness in meeting disabled people's transport needs and improving the pedestrian environment for disabled people should be reviewed over time.

Government response:

The Transport Act 2000 places Local Transport Plans on a statutory footing. The DETR is considering how it can help local authorities to assess and monitor the provision they make for disabled people so that a useful assessment of the improvements can be made over time.

- 7.8 We welcome the DETR having established a group, drawn from the aviation industry and the Disabled Persons Transport Advisory Committee, to develop a Code of Practice on access for disabled people to air travel for public consultation. We recommend that a reserve power should be taken to give the Code statutory backing if agreement and compliance cannot be achieved on a voluntary basis.

Government response:

Consultation on the Code, which will cover UK airports and airlines, will be undertaken shortly. We will take a reserve power, when legislative time allows, to place the Code on a statutory footing if the voluntary route proves ineffectual.

- 7.9 DETR should consult on the remit of a formal review, including any need for legislative provisions, for accelerating progress in compliance with the International Maritime Organisation and Disabled Persons Transport Advisory Committee guidance on access for disabled people in the shipping industry. The review should be conducted to an agreed timetable and produce recommendations to Government.

Government response:

We recognise the Task Force's concerns. The IMO's guidance has been with industry for a number of years. DPTAC's guidance was only published in November 2000. When the industry has had time to consider the guidance, we agree it will be timely to take an overview of access arrangements.

THE ENVIRONMENT AND HOUSING

Task Force recommendations

- 8.1 We welcome DETR's agreement to consult on the remit of a review of Part M of the Building Regulations before the end of 2000. The consultation should consider the extent to which guidance should be clarified to ensure consistency of interpretation and how this will be handled in the review. Any consultation should involve disability interests as well as commercial bodies such as property service managers. Consideration should also be given to the mechanisms by which disabled people are consulted.

The review, which should start before the middle of 2001, should preferably be carried out in conjunction with reviews of Part R (Northern Ireland) of the Building Regulations and Part T (Scotland) of the Technical Standards.

We also welcome DETR's agreement to undertake further research into the current effectiveness and enforcement of Part M in advance of the broader review.

Government response:

An initial consultation survey on these issues ended on 31 August 2000. The survey included a wide range of organisations and individuals covering disability interests, building owners, managers and designers. In addition to seeking views on the existing Part M provisions for England and Wales and the equivalent provisions in Scotland, the survey also sought views on the current application of Part M and the possible extension of Part M to existing buildings as a basis for further action on these issues. Following consideration of the analysis of responses, specific proposals will be drawn up for revising Part M as a basis for further public consultation in 2001.

- 8.2 The scope for extension of Part M to apply to existing buildings should be included in the review of Part M.

Government response:

Please see response to 8.1 above.

- 8.3 In light of our recommendations, DETR should establish an advisory group similar to the Disabled Persons Transport Advisory Committee, on improving access to the built environment for disabled people, drawing its membership from the building and planning worlds and disability organisations.

Government response:

The Disabled Persons Transport Advisory Committee has accepted an invitation from DETR Ministers to establish a high level working group to advise on improving access to the built environment for disabled people. Its first meeting was on 30 August 2000 and it has met on other occasions. It has a broad membership drawn from building, planning and access professionals working alongside DPTAC members. We have asked the group to consider the related Task Force recommendations (ie. 8.1, 8.2 and 8.4).

- 8.4 DETR should commission the preparation of a good practice guide on planning and access as part of its 2000/01 Planning Research Programme. The proposed document should look at good practice in relation to both the development plan policies and the planning and access aspects of different types of environment. The views of disability organisations and the Planning Officers' Society should be sought.

Government response:

This Guide has been included in DETR's 2000/2001 Planning Research Programme and the project will commence shortly. It will look at examples of good practice and will explain the respective roles of the planning system, Building Regulations and the DDA.

- 8.5 DETR should, where necessary, add or strengthen references to disability access in relevant Policy Planning Guidance Notes and planning circulars as these come up for revision.

Government response:

Relevant references will be included as documents come up for review and proposals for change put forward during consultation on draft planning guidance will be considered.

- 8.6 The Government should consider the future role of Section 76 of the Town and Country Planning Act 1990, which requires planning authorities to alert developers to disability access requirements, when a suitable legislative opportunity arises. Developers should be alerted to disability access legislation at the earliest possible opportunity in the planning process.

Government response:

We agree with the Task Force and will review Section 76 when a suitable opportunity arises.

- 8.7 English Heritage should, in discussion with disability organisations, update its guidance note Easy Access to Historic Properties, by Summer 2000. This should then be given a wide circulation to emphasise the need for all those involved to adopt a positive approach to access issues.

Government response:

English Heritage plans to revise and re-issue “Easy Access to Historic Properties” to reflect new Regulations and the accompanying Code of Practice and Practical Guide once the final versions have been agreed. The basic content of the publication remains sound and, apart from adding further good practice examples, it is intended to include cross references to new Regulations and the Code of Practice and Practical Guide. English Heritage welcomes any opportunity to discuss proposed revisions with the DRC.

- 8.8 English Heritage should prepare a new set of desk instructions for its staff on access issues by Summer 2000.

Government response:

Disability awareness training – with specific reference to access to the historic environment – forms part of the mandatory training for all English Heritage staff. Revised desk instructions on access for English Heritage staff were published on 8 January 2001.

- 8.9 Housing Authorities should ensure that the needs of disabled households are covered in the housing strategy produced for addressing housing need in their area. They should take account of links with the planning process to ensure that accessible housing is placed in areas where, for example, there is good access to public transport and local services such as shops.

Government response:

Annual Housing Investment Programme Guidance encourages local authorities to consider the housing of disabled people when putting together their housing strategies. Planning Policy Guidance advises local authorities that housing for special groups including disabled people should be constructed in accessible locations.

- 8.10 Local authorities and Registered Social Landlords (RSLs) should introduce performance indicators locally under 'Best Value' to show the quality of the adaptation service they provide to disabled people.

Government response:

The Best Value in Housing Framework document includes a reference to adaptation services in the context of local performance indicators. This recommends that “action to help disabled people and to show the quality of the adaptation service” might be incorporated in local authority performance indicators.

- 8.11 Councils and estate agents should be encouraged to keep up-to-date records of all known dwellings that are potentially suitable for disabled people, in order to compile cross sector databases to match needs.

Government response:

The Code of Guidance on homelessness and allocations (a revised Code will be published later in 2001) encourages local authorities to establish databases of properties specially designed or adapted for disabled people. The National Disabled Persons Housing Service's "A Perfect Match - A Good Practice Guide to Disability Housing Registers" gives good practice examples of how estate agents can provide a comprehensive estate agent service which promotes accessible housing.

- 8.12 In discharging their statutory obligations under Best Value, local authorities should consult the beneficiaries of adaptations and take account of their views.

Government response:

Section 3 of the Local Government Act 1999 places a general duty on Best Value authorities to make arrangements to secure continuous improvements in the way they exercise their functions. Under this section an authority must consult all relevant stakeholders, including those who use or are likely to use services provided by the authority.

- 8.13 DETR should implement the two legislative proposals in its Improving Rights of Way in England and Wales Consultation Paper for improving access to the rights of way network for disabled people. The Countryside Agency and the Countryside Council for Wales should fully involve disability organisations in drafting guidance on how the principle of easing passage should be interpreted for each category of rights of way.

Government response:

The Countryside and Rights of Way Act 2000 goes further than the proposals in the consultation paper. It requires local highway authorities to take account of the needs of disabled people when preparing statutory rights of way improvement plans, relevant authorities to have due regard to the needs of disabled people when authorising the erection of gates and other barriers on footpaths and bridleways, and empowers authorities to make agreements with land managers to improve or replace existing gates to make them safer or more convenient for disabled people.

PARTICIPATION IN PUBLIC LIFE

Task Force recommendations

- 9.1 Given that electoral procedure is prescribed in specific electoral statutes, further civil rights for disabled people in this area should be secured through changes in electoral law.

Government response:

The Representation of the People Act 2000 introduced a number of changes which will assist disabled voters. These will come into force during 2001. They are that the returning officer will provide at each polling station at least one large display version of the ballot paper and a device to enable blind or partially sighted voters to vote without the need for assistance. The current provision that blind voters may have the assistance of a qualified companion, where needed, will be extended to those with other physical incapacities or inability to read (see 9.5 below). The Electoral Commission recently established by the Political Parties, Elections and Referendums Act 2000 will now have a role in proposing changes to electoral legislation.

- 9.2 We endorse the Howarth Working Party's recommendations that the restriction on using a mental health hospital as a residence for electoral registration purposes should be removed and that the patient's declaration should be abolished.

Government response:

The Representation of the People Act 2000 has ended the restriction which prevented voluntary patients using a mental health hospital as a residence for electoral registration.

- 9.3 Electoral administrators should continue to be covered by the access to service provisions of civil rights legislation. The introduction of national minimum access standards is welcomed and the effectiveness of these in improving access to polling stations should be monitored.

Government response:

Electoral administrators will continue to be encouraged to monitor regularly their compliance with the national minimum standards on accessibility in accordance with existing legislation.

- 9.4 We support proposals for pilot schemes for alternative voting methods and recommend that disability organisations are consulted on their development of the schemes.

Government response:

We welcome the Task Force's support for our proposals for pilot schemes. The evaluation of the schemes, which took place in May 2000, showed that disabled people welcomed schemes such as early voting where the premises were fully accessible. In future, pilot schemes will be subject to the approval of and evaluation by the Electoral Commission. Consideration will be given to the needs of disabled voters in the development of any scheme, with consultation as necessary.

- 9.5 We endorse the Howarth Working Party's recommendation that the provisions for blind voters to be assisted to cast their vote by a companion should be extended to all electors who would not otherwise be able to cast a vote. Further consideration should be given to allowing a companion from outside the constituency to assist.

Government response:

The Representation of the People Act 2000 extends the present provisions for blind voters to have the assistance of a companion to vote to those electors who have physical incapacities or who are unable to read (see 9.1 above). Those who qualify to provide this assistance are a person who is entitled to vote at the election, or the father, mother, brother, sister, husband, wife, son or daughter of the incapacitated voter and who has attained the age of 18 years.

- 9.6 In publicising registration and existing and new voting arrangements, the Home Office and local electoral authorities should consider the needs of disabled people for information in accessible formats and advice on accessibility of polling stations.

Government response:

We will continue to encourage electoral administrators to adopt best practice in these areas when considering the needs of disabled electors.

- 9.7 We welcome the consolidation and revision of advice to electoral administrators on all aspects of disabled people's access to electoral service. In order that it meets good practice and addresses the needs of all disabled people, disability organisations should be consulted in its preparation.

Government response:

We have held meetings with various groups representing the interests of disabled people to take their views on provisions for disabled electors. We remain committed to ensuring that any guidance and advice to electoral administrators will be subject to consultation with relevant disability organisations.

- 9.8 The Court Service, local authorities and magistrates' courts committees continue to be covered by access to service provisions in civil rights legislation.

Government response:

We agree that these bodies should continue to be covered by the access provisions.

- 9.9 We welcome the measures in the Speaking Up for Justice report and Youth Justice and Criminal Evidence Act 1999 to assist vulnerable witnesses, many of whom will be disabled people.

Government response:

We welcome the Task Force's support on these measures. We are committed to providing greater protection for vulnerable or intimidated witnesses. The target for implementing most of the special measures in the Crown Court by the end of 2000 was ambitious and the various agencies have indicated that they will need more time to prepare for these changes, which will be brought into effect in the 2001/2002 financial year.

- 9.10 We welcome the blind magistrates' pilot and recommend, subject to the Lord Chancellor's Department's review of the pilot, that the bar on blind people serving as magistrates should be lifted permanently.

Government response:

The final assessments of the magistrates taking part in the project were submitted to the Lord Chancellor's Department at the end of 2000. These were analysed and recommendations on the future appointments of visually impaired people were submitted to the Lord Chancellor in February 2001.

- 9.11 There are many reasons why a juror may not be able to carry out his duties effectively; the need for a specific statutory reference to physical disabilities should be reviewed.

Government response:

We are taking forward this recommendation in a consultation document on third party support for jurors, which will be published in 2001.

- 9.12 The definition of those mentally disordered people ineligible to serve as jurors should be considered further in consultation with the DRC.

Government response:

We aim to publish a consultation document by the end of 2001.

- 9.13 We welcome the Home Office's review of the bar on the presence of third party support in a jury room, in relation to disabled jurors requiring communication support or care assistance. We recommend that, subject to the outcome of the review, the bar is lifted. We recognise that safeguards may need to be put into place to accompany such a change.

Government response:

We hope to publish a consultation document following on from the review later in 2001.

- 9.14 We welcome the work of the Judicial Studies Board's Equal Treatment Advisory Committee in preparing guidance for the judiciary on disability issues. The Judicial Studies Board also needs to consider appropriate disability awareness training for judges to ensure that disabled people are not disadvantaged in the legal system.

Government response:

The remaining Sections of the guidance in the Equal Treatment Bench Book (including those on disability issues) were published in December 2000. The Judicial Studies Board's training on disability issues will be extended as part of the JSB's Equal Treatment Advisory Committee's 3-year strategy to include all aspects of equal treatment in all JSB core training.

- 9.15 In future, the Community Legal Service (CLS) should work with the DRC to ensure that the CLS's services are accessible for disabled people.

Government response:

The Legal Services Commission's report, approved by the Lord Chancellor in July 2000, proposed that the Legal Services Commission should consult with the DRC on measures to ensure that disabled people enjoy full access to CLS services and collect data from a wide range of sources to monitor the take-up of its services by disabled people.

LOCAL GOVERNMENT, HEALTH AND SOCIAL SERVICES

Task Force recommendations

- 10.1 As part of 'Best Value', local government should be measured by a specific equality performance indicator in the area of disability.

Government response:

Following consultation on the best value performance indicators for England and Wales 2001/2002, we have adopted the best value performance indicator BV 16 to measure "The percentage of local authority employees declaring that they meet the Disability Discrimination Act disability definition compared with the percentage of economically active disabled people in the authority area". Two other indicators have been adopted concerning accessibility to public buildings and pedestrian crossings with facilities for disabled people.

- 10.2 There should be performance measures and statutory guidance for Beacon Council status on disability issues.

Government response:

We are currently considering the applications made by local authorities for beacon status in the second year of the scheme. Audit Commission Performance Indicator data, which cover equal opportunities, are being used in selecting Beacon Councils.

- 10.3 A Beacon Council should be set up to focus on the equality agenda as a champion for best practice in the area of disability.

Government response:

Please see response to 10.1 above. Also, a theme on Accessible Services is included among the themes under which councils have made applications in year two of the scheme.

- 10.4 Local Government should facilitate the involvement of disabled people in local democracy to improve their participation in the decisions that affect their lives and the provision of services.

Government response:

The general duty to consult under Section 3 of the Local Government Act 1999 will help to enhance participative democracy for all sections of the community, with regard to an authority's arrangements to secure best value.

- 10.5 We endorse the Government's commitment to ensure that access to health and social services is on the basis of need alone, without discrimination on the basis of disability or other factors, such as age, sex, or race.

Government response:

We welcome the Task Force's endorsement of our commitment to ensure access to health and social services is on the basis of need alone. The NHS Plan (published in June 2000) sets this out in more detail and explains our support for a universal service which is funded nationally and available to all citizens.

- 10.6 The Department of Health and the DRC should work together to decide what further action might be needed to implement the DDA, and to monitor its implementation in both the NHS and Social Services, taking account of initiatives already under way in both services.

Government response:

We agree with the Task Force that the Department of Health (DH) should work with the DRC to decide what further action may be needed to implement and monitor the DDA in health and social services. We plan to monitor progress on initiatives such as the NHS strategic equality

framework, which are aimed at ensuring implementation of equality legislation in the NHS through the NHS Performance Framework. We will use the Social Services Performance Assessment Framework to monitor implementation of the DDA in social services.

- 10.7 The DRC and the Department of Health should work together in areas such as: living in the community; dignity and prevention of abuse; freedom of movement and consistency of service provision; the involvement of disabled people in planning and commissioning services; and complaints and inspection procedures.

Government response:

We agree with the Task Force that the DH and DRC should work together in the areas identified. The NHS Plan offers much greater scope for NHS users to be involved in service planning and delivery. The introduction of Patients' Forums into NHS Trust Hospitals will allow representatives from patients' groups and voluntary organisations to influence the way in which local services are run. The older people's National Service Framework, which is currently being developed, will address consistency of service provision. Much of the work being done to improve services for older people (including those with disabilities) will also be of benefit to younger disabled people. The use of Direct Payments (the facility for giving social services users funding to purchase services of their own choice rather than being restricted to use of the services already provided by local authorities) is on the increase. These offer increased choice to disabled people of all ages.

- 10.8 The Department of Health should, in consultation with the DRC, pursue a rolling programme of guidance and other communication with health and social services staff to ensure that all staff are fully aware of their obligations to:
- serve all disabled users on a non-discriminatory basis;

- take a proactive role in informing and supporting disabled service users to pursue their rights and opportunities - for example, mental health staff should take active steps to provide the support that may be necessary to enable clients to pursue employment opportunities; and
- employ disabled people on a non-discriminatory basis.

Government response:

We agree that the DH should, in consultation with the DRC, pursue a rolling programme of guidance and other communication with health and social service staff.

We have issued guidance to the NHS and Social Services on the implementation of Part III of the DDA and sponsored a distance learning pack. The DH has also developed a survey that will measure progress on the implementation of Part III of the DDA in the NHS over the years 2002-2004. It plans to liaise with the DRC on issues raised by the survey. "Looking Beyond Labels" (good practice guidance to the NHS on all aspects of HR management relating to disabled staff published in April 2000) also encourages employment on a non-discriminatory basis.

- 10.9 The Department of Health should provide a lead in challenging attitudes towards disabled people in health and social services which lead to discrimination. It should consult with the DRC, disability organisations and the health professions on guidance to ensure decision making in key areas such as access to treatment and continuation of treatment is consistent and not influenced by inappropriate judgements on 'quality of life'.

Government response:

Work carried out in a number of areas is contributing to challenging attitudes towards disabled people in health and social services. See our responses to recommendations 10.5, 10.7, 10.10 and 10.11.

10.10 GPs should not discriminate on grounds of disability when accepting or declining patients to be taken onto their lists, or in deciding the removal of patients from those lists.

Government response:

We are committed to the principle of non-discrimination in primary health care services, as in other aspects of health care. GPs are expected to offer the full range of medical services to all their patients, without discrimination on the grounds of disability. The General Medical Council has been alerted to the need to take this recommendation into account in the redrafting of its document "Duties of a Doctor".

10.11 The General Medical Council should be asked to add to its guidance 'Duties of the Doctor' a commitment that doctors should not allow their views of disability to prejudice the treatment given or arranged.

Government response:

Please see response to 10.10 above.

10.12 The Department of Health should look at improving the arrangements for advocacy support, including whether Sections 1 to 3 of the Disabled Persons (Service, Consultation and Representation) Act 1986 should be implemented.

Government response:

We are considering how best to promote the development of advocacy services for people with learning disabilities in the context of the forthcoming Learning Disability White Paper. The DH has held a preliminary meeting with DRC officials and agreed to work together to consider the most effective ways of developing advocacy services for disabled people generally.

10.13 The Government should maintain its commitment to consider allowing the DRC to assist individuals under the Human Rights Act.

Government response:

We are committed to considering giving to the DRC the power to assist individuals in proceedings under the Human Rights Act. This is also an issue for the EOC and CRE. We therefore want to take an holistic approach and consider the matter in relation to all the Equality Commissions, in the light of any recommendations the Joint Parliamentary Committee on Human Rights may make on whether there should be a Human Rights Commission.

10.14 For people compulsorily detained under mental health legislation, the principle of ‘reciprocity’ should apply: it is not reasonable to detain someone under compulsion for treatment, and not to offer them good quality health and social care.

Government response:

The White Paper “Reforming the Mental Health Act” set out the Government’s proposals for future mental health legislation. These proposals will introduce a new requirement that where a patient is to be subject to the use of compulsory powers there has to be a thorough multi-disciplinary assessment defined in the Care Programme Approach which will lead to the development of an approved care treatment plan. This should set out unambiguously those elements where compliance is compulsory. Where treatment will be compulsory, then it will be provided in a way that enables the patient to comply.

The new focus on the development of a care plan, to be approved by an independent tribunal, will have a real effect on the quality of care that those subject to compulsory powers will receive.

10.15 The DRC should consider commenting on the regular reports of the Mental Health Act Commission (MHAC), or whatever body may replace it, to ensure that mental health law is applied in ways that safeguard people with mental health problems from discrimination. The DRC should work with the Mental Health Act Commission to ensure the MHAC's staff are adequately trained in disability discrimination matters. This will enable the MHAC to inform disabled people of their rights under the DDA and how to secure them.

Government response:

As the White Paper "Reforming the Mental Health Act" makes clear, tackling discrimination experienced by those with mental health problems is a matter of high priority for the Government. Standard 1 of the Mental Health National Service Framework has the express aim of ensuring that health and social services should promote mental health and reduce the discrimination and social exclusion associated with mental health problems.

We agree therefore that the DRC and the new Commission for Mental Health should liaise effectively to ensure those who are subject to formal powers are aware of their rights under the DDA and the relevant provisions of that Act are taken fully into account when developing training for people with key responsibilities under the new legislation.

10.16 The Department of Health should ensure that all aspects of its quality improvement agenda, such as National Service Frameworks, the work of the National Institute for Clinical Excellence and Commission for Health Improvement and information materials for users mainstream disability rights issues. The Department of Health should consider adopting national minimum standards, with an emphasis on services being provided in an integrated setting where possible, to ensure fairness for disabled people in the delivery of health and social services.

Government response:

We agree with the Task Force that all aspects of the DH's quality improvement agenda and all information materials should mainstream disability rights issues. The key elements of the NHS quality strategy are now in place. The Centre for Health Improvement (CHI) and the National Institute for Clinical Excellence (NICE) have now begun work. National Service Frameworks (NSFs) for Mental Health and Coronary Heart Disease have been published and others are on the way. Our "Quality Strategy for Social Care" (published in August 2000 for consultation) proposes the establishment of a Social Care Institute for Excellence to evaluate and disseminate knowledge about best practice. The work of the new General Social Care Council and National Care Standards Commission will assist in improving the standards and quality of social services. The DH will be happy to work with the DRC and other relevant bodies on the quality improvement agenda.



Annex 2

The DDA's Provisions on the Definition of Disability, Employment and Access to Goods, Services, Facilities and Premises

1. This Annex describes the main provisions in Parts I-III of the Disability Discrimination Act dealing with the definition of disability, employment and access to goods, services, facilities and premises. It does not cover other Parts or provisions in the Act.
2. In considering the proposals in Section 3 of this response to the Task Force, you may wish to familiarise yourself with how the Act currently operates. Further detail is available from guidance booklets which can be obtained from the Disability Rights Commission Helpline 08457 622633, or www.drc-gb.org

Part I of the DDA

3. Part I of the DDA defines the concept of a 'disabled person'. Any person who is 'disabled' within the meaning of the definition has the protection laid down in other Parts of the Act. A person who has had a disability at some point in the past is also protected by Parts II and III.

Definition of disability

4. A person is disabled under the Act if he or she has a "physical or mental impairment which has a substantial and long-term adverse effect upon his [or her] ability to carry out normal day-to-day activities".

Meaning of terms in the definition

5. The definition covers physical and mental impairments. These include:
 - physical impairments affecting the senses, such as sight and hearing; and
 - mental impairments including learning disabilities and mental illness (if it is recognised by a respected body of medical opinion).
6. For an effect to be substantial it must be more than minor or trivial. Examples of substantial impairments might include: inability to see moving traffic clearly enough to cross a road safely; inability to turn on taps or knobs; and inability to remember and relay a simple message correctly.

7. A long-term effect is one which has lasted, or is likely to last, at least 12 months, or is likely to last for the remainder of the person's life. It includes effects which are less than substantial for a while but are likely to become substantial again.
8. Day-to-day activities are normal activities carried out by most people on a regular basis and must involve one of the following broad categories:
 - mobility;
 - manual dexterity;
 - physical co-ordination;
 - continence;
 - the ability to lift, carry or move ordinary objects;
 - speech, hearing or eyesight;
 - memory, or ability to concentrate, learn or understand; and
 - being able to recognise physical danger.

Particular cases or conditions

9. The Act's definition treats severe disfigurement as a disability even though it has no effect on a person's normal day-to-day activities.
10. Medication or equipment (such as an artificial limb) which helps a disabled person to overcome an impairment is ignored when considering whether an impairment has (or would have) a substantial effect. The exception to this general rule is for people who wear glasses or contact lenses where it is the effect on the person's vision while wearing either that is considered.
11. The Act covers progressive conditions where there might be no, or minor, initial effects but substantial ones are likely to occur. Examples of such conditions include: cancer; HIV infection; multiple sclerosis and muscular dystrophy. The Act covers these conditions from the moment that there is a noticeable effect on normal day-to-day activities, however slight.
12. The Act does not cover people with a gene that causes a disability unless they develop the disability.

Part II of the DDA

13. Part II of the Act relates to the employment of disabled people.

Scope of Part II

14. Under the Act, it is unlawful for employers with 15 or more employees to discriminate against disabled job applicants or employees in any aspect of employment.
15. Prison officers, fire-fighters, members of the different types of police forces, employees who work wholly outside Great Britain, members of the Armed Forces and employees who work on board ships, aircraft or hovercraft are not covered by Part II. People in occupations who do not meet the Act's definition of employee, eg. barristers, are not covered.

Forms of discrimination

16. It is discrimination for an employer to treat a disabled jobseeker or employee less favourably than others for a reason relating to that person's disability if the employer cannot justify that treatment.
17. It is also discrimination for an employer to fail to make a reasonable adjustment unless he or she can justify not doing so.
18. A justification by an employer must be both material to the particular circumstances and substantial. The reason, therefore, must be both relevant and something which is more than trivial or minor.

Reasonable adjustment

19. An employer must take such steps as it is reasonable for him [or her] to take to reduce or remove any substantial disadvantage which is caused to a disabled job applicant or employee, compared to a non-disabled person, by a physical feature of the premises or by the employment arrangements. This is known as a 'reasonable adjustment' within the terms of the Act. The Act gives a number of examples of steps which an employer might have to take for a disabled employee or job applicant:

- (a) making adjustments to premises;
 - (b) allocating some of the disabled person's duties to another person;
 - (c) transferring him [or her] to fill an existing vacancy;
 - (d) altering his [or her] working hours;
 - (e) assigning him [or her] to a different place of work;
 - (f) allowing him [or her] to be absent during working hours for rehabilitation, assessment or treatment;
 - (g) giving him [or her], or arranging for him to be given, training;
 - (h) acquiring or modifying equipment;
 - (i) modifying instructions or reference manuals;
 - (j) modifying procedures for testing or assessment;
 - (k) providing a reader or interpreter;
 - (l) providing supervision.
20. Employment arrangements include any arrangements for determining to whom employment should be offered, and any terms, conditions or arrangements on which employment, promotion, transfer, training or any other benefit is offered or provided.
21. Less favourable treatment by an employer of a disabled person for a reason related to that person's disability cannot be justified if the reason for the treatment can be removed, or made less than substantial, by a reasonable adjustment.

Occupational pensions

22. All occupational pension schemes are deemed to include a 'non-discrimination' rule. This prohibits the scheme's trustees or managers from discriminating against its members or applicants for membership in any way which would be unlawful if done by an employer.

Enforcement of the Act's employment provisions

23. A disabled person who believes he/she has been unlawfully treated can complain to an Employment Tribunal. If a disabled person feels that the trustees or managers of a pension scheme have discriminated against him/her, a complaint can be made through the pensions dispute resolutions system or through the Pensions Ombudsman.

The Questions Procedure

24. A disabled person who believes he or she has been unlawfully treated can make use of the Questions Procedure laid down in the Act. Under this procedure, a disabled person can send a standard questionnaire to the employer within 3 months after the treatment in question or within 21 days of a complaint made to a Tribunal. The questionnaire includes a matching reply form for completion by the employer.
25. This procedure is designed to help the disabled person and employer identify information which is relevant to a complaint. It is not obligatory for an employer to reply but where an employer deliberately, and without reasonable excuse, does not reply within a reasonable period, or replies in an evasive or ambiguous way, his or her position may be adversely affected should the complaint lead to proceedings at an Employment Tribunal.

Part III of the DDA

26. Part III of the DDA relates to the provision of goods, facilities and services, and to the sale, letting and management of premises. It is being introduced in stages.

Goods, facilities and services

27. The goods, facilities and services provisions of Part III affect those concerned with the provision of services to the public (eg. shops, hotels, banks, etc.). However, some services are specifically excluded from Part III.

These are:

- education and some other services closely related to it;
 - means of transport (eg. taxis, buses, trains, etc.), although Part III does cover transport infrastructure such as railway stations, etc.
28. Services which are not available to the public, such as those provided by private clubs, and the manufacture and design of products, are not covered by Part III.
29. Since December 1996, it has been unlawful to discriminate against disabled people by refusing them service, providing them service on worse terms or providing a lower standard of service. Under Part III a service provider discriminates against a disabled person if, for a reason relating to their disability, it treats the disabled person less favourably than it treats others and it cannot show that the treatment is justified.
30. The next stage of rights relates to the making of what are known as 'reasonable adjustments'. It took effect on 1 October 1999, and requires service providers to take reasonable steps to:
- change any practice, policy or procedure, which makes it impossible or unreasonably difficult for disabled people to use a service;
 - provide an auxiliary aid or service which would enable disabled people to use a service; and
 - overcome physical barriers which make it impossible or unreasonably difficult for disabled people to use a service by providing the service by reasonable alternative means.
31. The final stage of Part III will be introduced on 1 October 2004. Service providers will then have to take reasonable steps to remove, alter or provide a reasonable means of avoiding physical features, if it continues to be impossible or unreasonably difficult for disabled people to access a service.
32. In limited circumstances the Act permits a service provider to 'justify' treating a disabled person less favourably or failing to make reasonable adjustments. The circumstances which might apply are, for example, where

the treatment is necessary in order to avoid endangering the health or safety of any person; and, where the disabled person is incapable of entering into a legally enforceable agreement.

33. A service provider can justify treating a disabled person less favourably only if in its opinion one or more of the circumstances specified in Part III are satisfied, and in the court's view it was reasonable in all the circumstances of the case for the service provider to have held that opinion.

Sale, letting and management of premises

34. Since December 1996, it has been unlawful for landlords (and others with power to dispose of premises) to discriminate against a disabled person:
- in the terms on which they offer to dispose of those premises to the disabled person;
 - by refusing to dispose of those premises to the disabled person;
 - in their treatment of the disabled person in relation to any list of persons in need of such premises.
35. It is also unlawful for those managing premises to discriminate against a disabled person occupying those premises:
- in the way they permit the disabled person to make use of any benefits or facilities;
 - by refusing (or deliberately omitting) to permit the disabled person to make use of any benefits or facilities;
 - by evicting the disabled person or subjecting the disabled person to any other detriment.
36. There is an exemption for certain small dwellings, and less favourable treatment can be justified in certain circumstances. There is no duty to make reasonable adjustments to premises which are sold, let or managed.

Insurance

37. There are special provisions for insurance [in the Disability Discrimination (Services and Premises) Regulation 1996]. These mean that disability-related less favourable treatment in the provision of insurance services can be justified if all the following conditions are satisfied:
- it is in connection with insurance business carried on by the provider of insurance services;
 - it is based on information which is relevant to the assessment of the risk to be insured;
 - the information is from a source on which it is reasonable to rely; and
 - the less favourable treatment is reasonable having regard to the information relied on and any other relevant factors.



Annex 3

Draft Regulatory Impact Assessment

1. Title

Regulatory Impact Assessment for Section 3 of the Government's response to the Disability Rights Task Force report

2. Purpose and Intended Effect

(i) *Issues and Objectives*

1. Disabled people are protected against unlawful discrimination by the Disability Discrimination Act. Whilst recognising that the Act offers a number of significant protections, the Government believes it can be improved in a number of areas. In its 1997 manifesto, the Government gave a commitment to supporting comprehensive civil rights for disabled people in employment and society more widely.
2. In December 1997, the Government established a Disability Rights Task Force, comprising members from disability organisations, organisations representing large and small employers, trade unions, businesses and local authorities, to consider how best to deliver this commitment. In December 1999, the Task Force reported to Government ("From Exclusion to Inclusion") with 156 recommendations for action (both legislative and non-legislative) across a number of areas: defining disability; education; employment; access to goods, facilities, services and premises; travel; the environment and housing; participation in public life; local government; and health and social services.
3. The Government has announced its intention to implement the Task Force's recommendations on civil rights in education, and that is being carried forward in the Special Educational Needs and Disability Bill. Ministers at the Department of Environment, Transport and the Regions will be consulting separately on the Task Force's proposals for change to the DDA's transport provisions. Other recommendations by the Task Force require changes to the existing practice, or guidance, of Government Departments, agencies and authorities providing services to the public and will ensure that disabled

people's needs are fully integrated into the operation of such bodies. This response notes progress in dealing with these recommendations which are the responsibility of the relevant Departments to take forward and are set out in Annex 1 of this reply. This impact assessment does not cover these recommendations. Departments will produce their own impact assessments as and when these are necessary.

4. This response and impact assessment covers recommendations that look to address weaknesses and inconsistencies in the operation of the DDA in respect of the definition of disability, employment discrimination and access to goods, facilities, services and premises. The response also seeks to introduce new legislative requirements on public bodies, to issue guidance and advice on disability issues and to improve the operation of the provision of services and equipment to disabled people.
5. The measures proposed by the Government will:
 - a. extend the definition of disability laid down in the DDA to people with cancer and who are HIV infected; make it easier for some people with visual impairments to prove they are disabled; monitor and review the operation of the definition; and improve guidance about the definition for courts and tribunals.
 - b. extend the employment provisions of the DDA to a range of organisations, occupations and posts not currently covered; reflect provisions, or proposed provisions, in the Sex Discrimination Act (SDA); make minor changes to the operation of the DDA's reasonable adjustment provisions; and change how complaints of discrimination, and the way in which employers can ask questions about disability, are handled. There will also be a new duty for the public sector to promote equality of opportunity and changes to the law to promote the employment of disabled people by local authorities.
 - c. extend aspects of the duty of reasonable adjustment to those who let or manage premises; and, ensure that, with some exceptions, functions of public authorities not already covered by the DDA are brought into its scope.

- d. carry forward detailed work on improving the delivery of services and equipment for disabled people.
6. In addition, the Government is asking the Disability Rights Commission (DRC), as part of its overall monitoring of the DDA, to review and monitor the operation of a number of areas and to report back with recommendations, which are supported by evidence of need.

3. Options

(i) *Identifying the options*

7. In general the options are:
- a. do nothing;
 - b. amend the DDA to take account of those Task Force recommendations which are necessary ie. those needed to implement the Article 13 Employment Directive, those flowing from the Government's commitments in the November 1999 Equality Statement and those for which there is evidence of need; and also look at measures to tackle barriers in the provision of services and equipment.
8. Option a. would ignore the legitimate expectations of disabled people for the rights which others in society take for granted. It would run counter to the Government's manifesto commitment on comprehensive civil rights for disabled people. Therefore, this assessment is based on option b. This commits the Government to taking action in various ways on 36 of the Task Force's 41 legislative recommendations. Where further consideration is needed of some recommendations which overlap with the provisions of the Article 13 Employment Directive, this will be done alongside any possible further (fairly minor) changes to the DDA flowing from the Directive. In the case of this latter group, RIAs will be produced as and when the Government's proposals are consulted upon. RIAs will also be produced on the public sector duty to promote equality of opportunity and the extension of scope of the DDA to most functions of public authorities when the detailed policy is further developed.

4. Costs and Benefits

9. Annex A provides details of the potential costs and benefits under option b above. Annex B summarises these costs and benefits. The following paragraphs briefly outline the main points.

Business

10. One effect of the proposals is that businesses will consider disabled applicants who might be the best person for the job, and retain the expertise and experience of people who become disabled or whose disability worsens, when they might not have done previously. In addition, employers will be better informed about the often minor adjustments that can help them employ or retain effective workers. Such steps will also reduce training and recruitment costs.
11. Overall, the costs to business are around £2.8 million one off costs, and £2.2 million recurring costs. The issue that has the most substantial impact on costs is the extension of the employment provisions of the DDA to cover small business. The average cost per business for **small businesses** of removing the employer exemption is **£3.92¹ although many businesses will have no costs at all**. The average cost per business for **all businesses** (including small businesses) of all other proposals is **£0.30²**

Other benefits and costs

12. There are clear benefits to society in encouraging the removal of barriers to participation in everyday life for many of our citizens. There are also benefits from the promotion and extension of a more diverse workforce.
13. There are costs to Government as an employer, due to the extension of the DDA to cover police and prison officers. These are estimated at around £31,000 one-off and £93,000 recurring costs.

1 See Annex A

2 The cost, excluding the small business exemption is £375,104. At start 1999 there were approximately 1,353,000 businesses with employees. (Source: Small Business Service). Hence, the cost per business is approximately 30p

14. There are recurring costs to Government as the body responsible for the Tribunal Service, and these are estimated at around £226,464.

Employees and Individuals

15. There are two main benefits to employees and individuals: first, an extension of the coverage of the DDA to include more employees, occupations or individuals; and second, greater protection for those covered by the DDA. These proposals extend DDA protection to over 600,000 additional disabled people in employment and occupations. In addition, they will bring greater protection for all employees through changes such as improving the way in which complaints of discrimination are handled. Likewise, all disabled individuals will benefit from improved access to private clubs, more effective and efficient dealings with landlords and more efficient access to services and equipment.

5. Compliance Costs for Business

16. We have assumed, as is the usual practice, that where an employer successfully defends a complaint to a tribunal or court, there will be compliance costs. These costs have been included in our assessment of the costs to business and Government given above. However, where a claim is lost, the employer has obviously not complied, so the costs are not included.

6. Impact on Small Business

17. Consultation with small businesses has been carried out and a summary is attached at Annex C.

7. Other Costs and Benefits

18. All costs and benefits have been incorporated into the Annexes.

8. Results of Consultations

19. This draft RIA is part of a public consultation process.

9. Summary and Recommendations

20. This impact assessment estimates that the total compliance cost for business is around £2.8 million for one off costs and around £2.2 million for recurring costs. The ending of the small employer threshold in Part II of the DDA is expected to be the most significant element, imposing additional costs of £4,708,000 on 1.2 million small businesses. However, the average cost for small businesses is only £3.92 and the average costs for all business £0.30.
21. There are also costs to Government as an employer and as the authority responsible for the Tribunal Service. In the case of the former, extending the DDA to cover police, prison and fire officers will add a one off cost of around £31,000 and £93,000 for recurring costs. In the case of the tribunal proceedings, the recurring costs are estimated at around £226,000.
22. In addition, there are two proposals which will impact significantly on the operation of public authorities: (i) the proposal to introduce a duty on public authorities to promote equalisation of opportunity for disabled people; and (ii) the proposal to extend the DDA to all functions of public bodies. In each case, the costs are equivocal and will depend on the scope and nature of the legislation which eventually gives effect to these measures. Further consideration will be given to costs as part of the public consultation exercise.
23. There are also significant benefits arising from these proposals. They will ensure greater fairness and participation for disabled people by extending the coverage of the DDA to more employees and occupations and will help to promote greater social inclusion. In particular, the proposals to extend the DDA will ensure that a further 600,000 disabled people in employment and occupations are covered by the Act's employment provisions. Other proposals will ensure that all disabled people benefit from greater access to private clubs, more effective dealings with landlords and better access to services and equipment.

10. Enforcement, Sanctions, Monitoring and Review

24. Enforcement and sanctions are already laid down in the DDA and the Disability Rights Commission Act 1999. The courts and Employment Tribunals (and in Scotland, the Sheriff Courts) continue to be the means for individuals to obtain legal redress. The DRC continues to have enforcement powers and can support individual disabled people with legal complaints. Where new measures are being proposed, or existing measures are being extended, enforcement and sanctions will involve the tribunals, courts and DRC as appropriate. The DRC, as part of its overall duty to monitor the DDA, will keep the legislative framework under review.

Annex A: Identifying the costs and benefits³

1. Definition of Disability [Paras 3.4 to 3.20 of main document]

- 1.1 The intention is that future guidance and communication directed towards or about disabled people will make clear the full range of the DDA definition of disability. It is not intended that any new guidance will be produced solely to meet this recommendation and therefore there is no direct cost of this proposal to Government. Future guidance will provide greater clarity of the definition for both employers and service providers.
- 1.2 People certified partially sighted or blind will be deemed to be covered by the DDA definition of disability. Although this is not expected to increase the numbers of people covered but will assist such people in proving that they meet the definition. The coverage of the DDA will be extended to people with asymptomatic HIV and to people with cancer from the point it is diagnosed as being likely to require significant treatment. These measures are expected to increase the number of people covered by the DDA by about 0.7%⁴, an increase of approximately 40,000 people. This will result in a small increase in tribunal costs, but is unlikely to result in an increase in recruitment or workplace adjustment costs. The extension of the definition will also apply to service providers, under Part III of the DDA. We do not consider that extending coverage to people with asymptomatic conditions will result in additional costs for service providers as adjustments are unlikely to be needed for them when accessing goods, facilities or services.

Cost/benefit to business: We assume that these conditions will not result in the need for adjustments to workplaces or recruitment costs. Costs associated with tribunal cases will increase by **£37,800** per year

3 For consistency with previous DDA Compliance Cost Assessments and Regulatory Impact Assessments, we use UK rather than GB figures. It should be noted, however, that if costs were to be considered from a Great Britain perspective they would be likely to be proportionately lower. However, the magnitude may not be great since Northern Ireland accounts for 2.3% of businesses in the UK (Source: Small Business Service) and 2.5% of employment in the UK (Source: LFS, Summer 2000)

4 Internal estimate, % increase based on number of current DDA disabled (5,506,000 of working age) people in the UK (Source: LFS, Summer 2000)

(£5.4⁵ million x 0.007 to reflect the proportionate increase in the number of people covered).

Cost/benefit to Government: The total cost to Government from disability cases currently is £672,000⁶. If this increases by 0.7%, then the additional cost will be **£4,704**.

Cost/benefit to employees: In Summer 2000, there were 2,309,000 people who meet the current DDA definition of disability in work. If the extension of the definition increases this number by 0.7%, then there will be an additional **16,000** employees who will benefit.

- 1.3 Guidance to tribunals and courts will have to be redrafted to further clarify what constitutes normal day-to-day activities in the legislation and ensure that Employment Tribunals appropriately disregard the coping and avoidance strategies of disabled people. It could also be modified to reflect the changes brought about by, for example, including those with asymptomatic conditions. If new guidance is effective in resolving issues previously found difficult by the tribunals then the efficiency of the tribunal system should improve. This would result in time and cost (eg. legal advice) benefits to individuals and businesses. There is a cost to Government of producing and disseminating guidance, though as noted above this guidance will incorporate a number of the issues raised by the Task Force.

Cost/benefit to Government: Production, consultation and dissemination of guidance to tribunals.

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- 5 DfEE Compliance Cost Assessment (Revised in October 1999) Tribunal proceeding costs for current DDA disabled employees were estimated to increase from £4.2m to £5.2m if the exemption was placed at fewer than two employees. We assume that removing the exemption altogether results in tribunal proceeding costs of £5.4m. In the CCA, tribunal proceedings were calculated by using data from the number of tribunals in other anti-discrimination jurisdictions. The number of employers who will incur some additional cost was then multiplied by an estimate of the average cost per hearing
- 6 The Employment Tribunals Service handled 91,913 employment cases of all jurisdictions in 1998/99 at a total cost of £43.2m. 1,430 disability cases represents 1.6% of the total. Therefore, 1.6% of the total cost (which implies £672,000) is attributable to disability cases

2. Employment Provisions [Paras 3.21 to 3.68 of main document]

- 2.1 Removing the justification for failure to make a reasonable adjustment will have a neutral effect. In any situation where an employer could justify such a failure, the adjustment would in fact not have been reasonable in the first place. The employer's only necessary defence is therefore one of unreasonableness. In fact, there might be modest tribunal savings from the combining of defences.
- 2.2 Including extra examples of adjustments in the DDA will not lead to additional costs because employers might have to make such adjustments as the law currently stands.

Small business exemption

- 2.3 Currently, all businesses employing fewer than fifteen workers are exempt from having to comply with the requirements of Part II of the DDA. Removing this exemption would result in costs for familiarisation with legislation, small recruitment costs (eg. occasional adjustments for interviews), some workplace adjustment costs as well as occasional costs arising from tribunals.
- 2.4 Only a small minority of employers are expected to have to make adjustments under Part II of the DDA. Employers are not required to make anticipatory changes, that is they only have to make necessary changes when a disabled person applies for and/or is recruited into the job. Those employers with no disabled employees may not incur any costs. Furthermore, the majority of disabled employees do not require any adjustments to be made and most of those that are needed have nil or minimal cost. This will make the average cost to employers much lower. Small employers may take time to acquaint themselves with the new legislation and may need to seek advice when recruiting or retaining disabled employees. However, many employers with a disabled employee are unlikely to seek advice if they have no difficulties with adjustments or their employee.

- 2.5 However, small businesses which are service providers already need to make reasonable adjustments under Part III of the DDA, where there is no small business exemption. The final stage of Part III comes into force on 1 October 2004 and applies to businesses and other providers of services to the public where physical features make access to their services impossible or unreasonably difficult. The estimated costs for all businesses from adjustments in relation to physical features is in the range of £606-1,238⁷ million. There are approximately 2.1 million service providers⁸ in the UK, hence the cost per service provider is estimated to be in the range of £289-590. In comparison, the cost to small business of removing the exemption in the employment provision is estimated to be only £3.92 per business on average. (Detailed costing is below.)
- 2.6 The impact on industries will vary dependent on the number and the proportion of small businesses. There are approximately 1.2 million businesses with 1-14 employees⁹. Extending Part II to incorporate businesses with 1-14 employees brings 382,000¹⁰ DDA disabled employees into coverage of the employment provisions of the DDA.

7 DDA 1995 Access to Goods, Services and Facilities Regulatory Impact Assessment

8 DDA 1995 Access to Goods, Services and Facilities Regulatory Impact Assessment, Supplementary Information

9 At Start 1999, estimated from data from the Small Business Service

10 There are 1,817,000 current DDA disabled employees in Ltd companies. (Source: LFS, Summer 2000, adjusted using Small Business Service Statistics.) Of these 21% (estimated from Small Business Service Statistics) were in businesses with 1-14 employees, that is 382 000 employees. Incorporating these employees will increase the number covered by 27%

The table below shows how the number and proportion of small businesses varies across industries.

	Number of Businesses with 1-14 employees	Number of Businesses who have 1+ employees	Proportion of businesses with employees who have 1-14 employees
A,B Agriculture, forestry and fishing	62,600	64,500	97
C Mining and quarrying	1,400	1,700	81
D Manufacturing	112,900	145,000	78
E Electricity, gas and water supply	200	300	67
F Construction	118,700	127,300	93
G Wholesale, retail and repairs	268,700	295,600	91
H Hotels and restaurants	94,200	105,500	89
I Transport, storage and communication	44,900	51,200	88
J Financial Intermediation	20,000	22,700	88
K Real estate, renting and business activities	359,500	379,700	95
M Education	9,200	10,900	84
N Health and social work	38,500	52,400	73
O Other community, social and personal services	89,400	95,700	93

Source: Small Business Service, start 1999. Number of businesses with 1-14 employees is an estimate. All figures for businesses rounded to the nearest 100.

2.7 From the table it is clear that the real estate, renting and business activities; wholesale, retail and repairs; and, construction industries have the largest number of businesses with 1-14 employees. However, agriculture, forestry and farming have the greatest proportion of businesses with 1-15 employees. Hence, the costs to businesses will not be evenly distributed across industries.

2.8 Research evidence¹¹ suggests:

- a. Fewer than 10% of firms with disabled employees (now or in the past) have had to make adjustments in order to recruit a disabled person.
- b. Between a half and two thirds of firms have not had to make adjustments or provide support for disabled employees that they have, or have had.
- c. Four fifths of firms that have made adjustments have found it easy or very easy to do so.
- d. Only a third of those who have made adjustments say that they have incurred any direct financial cost in doing so.
- e. Small firms are less likely to have disabled employees: 28% of those with 1-14 employees have a disabled employee, compared to 53% of those with 20-49 employees.
- f. The most common adjustments relate to changes in working patterns or hours, and the organization of work.
- g. Hardly any small employers expressed a negative attitude towards the Act, with two-thirds saying they are in favour of the Act, and the remaining third saying they are neither in favour nor against it.

2.9 The research thus suggests that most businesses who have or recruit disabled employees will face no costs. Furthermore, if costs are faced, there is Government support for disabled people through Access to Work which can help mitigate costs, although the scheme is not directly linked to DDA adjustments. The Access to Work programme is delivered by the Employment Service and provides support tailored to the needs of individual disabled people to enable them to overcome the effects of their disability in the work place. Individuals must be in or about to enter paid work.

11 Impact on Small Business of Lowering the DDA Part II Threshold Project, Interim report

- 2.10 Support can take the form of help with the cost of getting to work, help with the cost of aids and adaptations to equipment, computers or the work place and with the cost of communicator support for those with a hearing or visual impairment. For this financial year the Access to Work budget is around £25.6 million. Since 1997, the programme has assisted over 21,000 disabled people to retain or gain work.
- 2.11 Under Access to Work, the Disability Employment Adviser will normally visit the employer's premises and together with the applicant and the employer, arrive at the most effective solution to the needs of the disabled applicant in the work place. All help is for a maximum period of 3 years after which the Employment Service reviews the circumstances. If the beneficiary continues to be eligible for help under the rules that then apply, Access to Work may provide help for a further period.
- 2.12 There are two main sources of direct advice for businesses adapting to the employment provisions of the DDA – the Disability Rights Commission (DRC) and Equality Direct. The DRC was set up in April 2000. It has a general duty to work towards the elimination of discrimination against disabled people and to promote the equalisation of opportunities for disabled people. One of its specific functions is to provide an authoritative source of information and advice to employers and service providers about their obligations under the DDA and guidance on good practice. The DRC is anticipating 55,000 enquiries on its helpline by the end of its first year of operation, several thousand of which will have been from employers or employer organisations. Equality Direct was launched on 29 January. Open to all businesses in England, but designed with the needs of small business in mind, the telephone advice service provides business with information and advice on equality issues, including disability. The service aims to help businesses resolve specific management issues and identify the costs and benefits of the options open to them. The two-year pilot is anticipating 100,000 calls a year from businesses across England, around several thousand of them on disability issues.

Cost/benefit to business: Recruitment, workplace adjustment and tribunal costs to businesses under the DDA (with the exemption) were estimated to be £7.8¹² million. Removing the exemption is expected to increase the costs by £2.8 million to £10.6 million. Of the additional cost, £700,000 is one-off.

There are approximately 1.2 million¹³ businesses with between one and fourteen employees, 28%¹⁴ of which have a disabled employee. We assume that of the 336,000 businesses with a disabled employee, 25% will read guidance and/or seek advice from either Equality Direct or the DRC help line (both help lines are free phone numbers). We further assume that of the 864,000 small businesses without a disabled employee, 5% will seek guidance. Hence, approximately 127,200 businesses will spend time familiarising themselves with the changes. We assume a manager at each of these businesses spends 30 minutes reading the guidance or contacting one of the help lines and that these managers are middle managers paid an hourly rate of £30¹⁵. Thus, the cost to small businesses of reading guidance and seeking advice is £1,908,000 [127,200 businesses x 1/2 (hourly rate of pay of middle manager, £30)].

The total costs to small business are **£4,708,000**. Thus, removing the exemption results in an average cost per small business of £3.92 although the cost will in practice be different for each business and nothing for many.

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- 12 A Compliance Cost Assessment (Revised in October 1999) by the DfEE estimated the cost to be £7.8m (£1.9m recruitment costs, £1.7m adjustment costs and £4.2m case/tribunal costs) with the exemption threshold at 15 employees, and £10.2m (£2.7m recruitment costs, £2.3m adjustment costs, £5.2m case/tribunal costs) with the exemption threshold at 2 employees. Assuming that removing the exemption altogether would result in further costs, proportionate to the number of additional current DDA disabled employees covered, the total cost of removing the exemption is estimated to be £10.6m (£2.8m recruitment costs, £2.4m adjustment costs, £5.4m case/tribunal costs). In the CCA, recruitment costs were calculated by estimating the number of applications made by people with disabilities for jobs and multiplying this by an estimate of the additional cost an employer might incur for each disabled person interviewed. This is then reduced to account for that proportion of employers who already allow for people with disabilities in their interview process and who are therefore unlikely to incur additional costs. Workplace adjustment costs were calculated by first estimating the number of disabled persons who will require some adjustment to be made and multiplying this by an estimate of the average cost to an employer of a reasonable adjustment. This is then controlled for those employers who are likely to have already undertaken these adjustments. The calculation for tribunal proceedings is explained in an earlier footnote
- 13 At Start 1999, estimated from data from the Small Business Service
- 14 Impact on Small Businesses of Lowering the DDA Part II Threshold Project, Interim report
- 15 The hourly rate of £30 (the rate for middle managers and clerical workers which includes overheads and central services) is obtained from the Office for National Statistics and is based on the New Earnings Survey

Cost/benefit to Government: The number of disabled employees covered by the DDA is expected to increase by 27%¹⁶ to 1,817,000 if the exemption is removed altogether. The total cost to Government from disability cases currently is £672,000¹⁷. If this increases by 27%, then the additional cost will be **£181,440** (annual).

Cost/benefit to employees: Removing the exemption for small businesses means that all employees working in businesses with fewer than fifteen employees will benefit from DDA coverage. This is estimated to bring benefits to **382,000**¹⁸ DDA disabled employees.

- 2.13 The DDA will be extended to cover partners in business partnerships. This is not expected to have a proportional effect on costs to businesses. In particular, we assume that there are no recruitment costs and that tribunal costs would not generally occur because the partners themselves would suffer if they took legal proceedings against their own partnerships. However, adjustments to the workplace might still have to be made.

Cost/benefit to business: There are around 683,000 business partnerships in the UK¹⁹ of which 99% are estimated²⁰ to have fewer than six partners. Assuming that the average number of partners in partnerships is three, then there are approximately 2 million partners in the UK. It is assumed that the same proportion of partners are disabled as disabled people in employment generally. So, there will be around 180,000 (9%²¹ x 2 million) disabled partners. We need only concern ourselves with the workplace adjustment costs of the DDA's employment provisions which are a non-recurrent cost of £1.50²² per person. So, additional costs to partnerships will be **£270,000 one off** (£1.50 per disabled partner x 180,000 disabled partners).

16 See footnote 13

17 The Employment Tribunals Service handled 91,913 employment cases of all jurisdictions in 1998/99 at a total cost of £43.2m. 1,430 disability cases represents 1.6% of the total. Therefore, 1.6% of the total cost (which implies £672,000) is attributable to disability cases

18 See footnote 13

19 At start 1999, source: Small Business Service

20 By the Inland Revenue

21 Proportion of those in employment who are current DDA disabled, Labour Force Survey, Summer 2000

22 Compliance Cost Assessment by the DfEE (Revised in October 1999)

Cost/benefit to partners: 180,000 disabled partners will benefit from coverage of the employment provisions of the DDA.

- 2.14 The extension of the employment provisions of the DDA to cover police officers, firefighters and prison officers will incur recruitment, workplace adjustment and tribunal costs to Government as an employer. In addition, the increase in tribunals will involve a further cost to the Government.

Cost/benefit to Government: There are 166,000 police officers, 46,000 firefighters and 45,000 prison officers in the UK²³. We assume the proportion of police and prison officers and firefighters who are current-DDA disabled to be 8%²⁴. So there will be around 20,560 (8% x 257,000) DDA disabled employees in these professions. Assuming that the average cost to public sector employers of the DDA's employment provisions is the same as the average cost to private sector employers, the average cost to the public sector of the DDA's employment provisions will be around £6.00 per disabled employee²⁵ [comprising £1.50 non-recurrent costs (adjustments to the workplace costs) and £4.50 recurrent costs (recruitment and tribunal proceeding costs)]. So, additional costs to the public sector will be **£30,840 one off** (£1.50 per disabled employee x 20,560 disabled employees) and **£92,520 recurrent** (£4.50 x 20,560 disabled employees).

There is also the direct Government cost of the increase in tribunals. The number of DDA disabled employees will increase from 2,013,000²⁶ to 2,033,560 as a result of this change, an increase of 1%. The total cost to Government from disability cases currently is £672,000. If this increases by 1% then the additional cost to Government will be **£6,720**.

Cost/benefit to employees: Approximately 20,560 employees will benefit from coverage of the DDA.

23 LFS, Summer 2000

24 LFS, Summer 2000. The average proportion of current DDA disabled employees who are police officers, firemen and prison officers is 7%. The average across all occupations is 9%. We assume the midpoint of 8% because the extension of the coverage of the DDA could encourage employment of disabled individuals

25 Compliance Cost Assessment by the DfEE (Revised in October 1999)

26 LFS Summer 2000, UK data

- 2.15 The DDA will be extended to cover barristers and barristers' and advocates' pupils. This will result in an increase in recruitment, workplace adjustment and tribunal costs, for barristers and pupils.

Cost/benefit to business: The employment provisions of the DDA will be extended to cover barristers in chambers and their pupils. There are 10,132 barristers²⁷ in independent practice in England and Wales and 686 pupils²⁸. It is assumed that the same proportion of barristers and pupils are disabled as disabled people in employment generally. So, there will be around 974 (9%²⁹ x 10,818) disabled barristers and pupils. The average cost of the DDA's employment provisions will be around £6.00 per disabled barrister/pupil (comprising £1.50 non-recurrent costs (adjustment to the workplace costs) and £4.50 recurrent costs (recruitment and tribunal proceeding costs)). So, additional costs to barristers will be **£1,461 one off** (£1.50 per disabled barrister/pupil x 974 disabled barristers/pupils) and **£4,383 recurrent** (£4.50 per disabled barrister/pupil x 974 disabled barristers/pupils). In Scotland, there are only 400 advocates so the costs will be minimal.

Cost/benefit to employees: Approximately 974 barristers and pupils will benefit from coverage of the DDA.

- 2.16 Including local councillors is not expected to result in a significant increase in costs to local authorities since local authorities already have to make provision under the DDA for their disabled employees (Part II), with whom councillors would share many facilities and to disabled members of the public (Part III) using their services. For example, it would be no burden for local authorities to make braille facilities which are aimed at the public available to councillors who need them. In addition, we doubt that local authorities are failing to ensure that their elected disabled members are able to perform their duties in any event. Any additional costs implied by the inclusion of councillors are therefore likely to be negligible.

27 Bar Council, as of 1st October 2000

28 Bar Council, as of 5th January 2001

29 Proportion of people in employment who are DDA disabled, Labour Force Survey, Summer 2000

- 2.17 The territorial coverage of the DDA's employment provisions should be extended to match that of the SDA.

Cost/benefit to business: The extension of the territorial coverage of the DDA to match that of the SDA will bring in employment on ships, aircraft and hovercraft. It is estimated that the extension will cover around 90,000 employees. So, there will be around 8110 ($9\%^{30} \times 90,000$) disabled employees affected by the extension of territorial coverage. The average cost of complying with the DDA employment provisions is £6.00 per disabled employee³¹, comprising £1.50 non-recurrent and £4.50 recurrent costs. The total costs would be: **£12,165 non-recurrent and £36 495 per year.**

Cost/benefit to Government: The number of DDA disabled employees will increase from 2,013,000³² to 2,021,110 as a result of this change, an increase of 0.4%. This could mean an increase of 0.4% in numbers of tribunal cases taken. The total cost to Government from disability cases in Employment Tribunals is currently £672,000. If this increases by 0.4% then the additional cost to Government will be **£26,880.**

Cost/benefit to employees: 8,110 employees benefit from DDA coverage.

- 2.18 Employment Tribunals would be able to consider former employees' claims about discrimination taking place within six months of the end of employment, where the discrimination had arisen directly out of the former employment. An example would be securing an appropriate reference for a new job. This may result in a marginal increase in the number of tribunals, with resultant costs for businesses and Government and benefits for the individual employees concerned.

30 Proportion of people in employment who are DDA disabled, Labour Force Survey, Summer 2000

31 Compliance Cost Assessment by the DfEE (Revised in October 1999)

32 LFS Summer 2000, UK data

Cost/benefit to business: In 1998/1999, there were 1,430 tribunal cases involving disability discrimination, of which 94% were successfully defended or withdrawn, with 6% resulting in success for the claimant. If there had been no small business exemption, the total figure would have been an estimated 1,931 disability discrimination cases of which about 1,815 (94%) would have been successfully defended or withdrawn and about 116 (6%) would have resulted in success for the claimant³³. If the effect of the above change is to increase the number of claims – by way of illustration by say 0.5% – then there will be an additional 9 cases (8 successfully defended/withdrawn and one lost). The compliance cost to business is therefore estimated to be approximately **£6,400**³⁴ recurring per year.

Cost/benefit to Government: The total cost to Government from disability cases currently is £672,000³⁵. If this increases by 0.5%, then the additional cost will be **£3,360**.

Cost/benefit to employees: Any disabled employee who is dismissed or leaves a job **could** stand to benefit from this change.

- 2.19 Following the production of guidance, the voluntary sector might consider the implications for disabled voluntary workers which have minor recruitment, workplace adjustment and tribunal costs for voluntary sector organisations, but only if they chose to take on those costs. We assume that, as this is the voluntary sector, organisations are already doing a very significant amount to meet the needs of their volunteers. Furthermore, potential costs are not thought likely to be significant, as the contract between an organisation and a voluntary worker is such that it is likely that both parties would want to seek a mutually acceptable outcome. If legislative change were eventually proposed, using the planned regulatory power, a separate RIA would be produced.

33 Information on the number of cases (1,430) was obtained from the Employment Tribunal Service, proportions are assumed from other data provided by the Employment Tribunal Service

34 Initial results from research commissioned by the DTI suggest that employers incur a total cost of £800 (including time spent by management and other staff) for a successfully defended employment case

35 The Employment Tribunals Service handled 91,913 employment cases of all jurisdictions in 1998/99 at a total cost of £43.2m. 1,430 disability cases represents 1.6% of the total. Therefore, 1.6% of the total cost (which implies £672,000) is attributable to disability cases

Cost/benefit to individuals: Voluntary organisations might consider disabled volunteers when they would otherwise not have done so and this would help some disabled people find a route into or back into paid employment.

- 2.20 The recommendation that public bodies should have a duty to promote equalisation of opportunity will produce equivocal costs and benefits dependent on the exact nature of the duty. Since wide consultation will be taken in order to identify how the duty should operate, it is difficult to ascertain the costs involved. Clearly, there will be benefits to disabled workers in public bodies, and to disabled users of public services and to the public sector from a more diverse, inclusive workforce.
- 2.21 The recommendation that the private sector should have a more proactive role in equalising the employment opportunities for disabled people is unlikely to result in any direct costs to businesses. However, if the proposed guidance does result in additional positive action by employers, this will bring benefits to disabled individuals and to the businesses from a more diverse workforce.
- 2.22 The recommendation of widening of the scope of local authority legislation, to allow one particular type of positive action scheme for disabled people by local authority employers is not likely to have a significant impact. Again, the costs here are clearly dependent on the nature of the scheme allowed and how far local authorities choose to use it. There will be no compulsion. However, there are potential benefits if more disabled people are encouraged to apply for jobs, and if it gives them a greater chance of being called for interview and subsequently recruited.
- 2.23 The DDA will be amended to ensure that Employment Tribunals can order re-instatement or re-engagement in cases brought under the DDA. Tribunals already have the power to recommend that an employer re-instate a former employee, as if there had never been a dismissal or that a former employee is re-engaged, where he or she is willing. Such recommendations are rarely made given the breakdown in the relationship between the employer and employee. Indeed in five years, there were only five such recommendations

out of a total of 7,065³⁶ tribunal cases. It is proposed that tribunals should have the power to order, rather than just recommend, re-instatement or re-engagement. There might be a minor increase in the number of cases where such a remedy is used. There are modest cost implications to employers in the cases where the power is used, particularly if subsequent staff have already been recruited.

Cost/benefit to employer: There were only five cases out of 7,065 cases in five years where re-engagement or re-instatement had been recommended. Therefore, it is unlikely that if the power to recommend changed into a power to order, that significant costs would be incurred.

Cost/benefit to employees: There will be benefits to disabled employees who will be re-instated in their employment.

- 2.24 The period by which someone claiming discrimination should issue the questionnaire will be extended from three to four weeks and, an eight-week deadline by which an employer is asked to respond will be introduced. The time limit is not expected to increase the cost to businesses of completing the questionnaires, and the net effect should be a beneficial speeding up of the process for both business and employees. In any case, it is only an expectation that an employer should return the questionnaire within this period. If the employer does not, the tribunal may draw an inference about his or her attitude.

Cost/benefit to businesses: No significant costs are foreseen.

Cost/benefit to employees: More efficient process should benefit employees bringing claims to tribunal.

- 2.25 The DRC and DfEE will discuss guidance that makes it clear how the DDA can help with retention and rehabilitation of employees, which implies costs to the public sector. If new guidance improves retention then there will be related benefits to businesses: reduced staff turnover, reduced absenteeism and reduced risk of tribunal proceedings. The latter will also be of benefit to the Government, and employees will benefit through improved job retention.

36 DfEE Database of Employment Tribunals (forthcoming)

Costs/benefit to employers: Improved retention of staff will lead to reduced costs of staff turnover, reduced absenteeism.

- 2.26 The current situation, of employers being able to ask disability-related questions, offers benefits to disabled individuals seeking employment. It can be vital for many disabled people to have the chance to indicate that they have disability-related needs in the recruitment process and for applicants and employers to discuss disability-related needs in relation to the job itself. The Government response will allow these benefits to continue. If it happens that a disabled person does not get selected for interview or for a job once an employer knows that they are disabled, then the employer risks a tribunal case as things stand.
- 2.27 If complaints against trustees and managers of occupational pension schemes are heard by Employment Tribunals then there will be an increase in tribunal cases imposing a cost on both the pensions business and the Government. However, disabled employees will benefit from a more powerful process.

Cost/benefit to business: In 1998/1999, there were 1,430 tribunal cases involving disability discrimination, of which 94% were successfully defended or withdrawn, with 6% resulting in success for the claimant. If there had been no small business exemption, the total figure would have been an estimated 1,931 disability discrimination cases of which about 1,815 (94%) would have been successfully defended or withdrawn and about 116 (6%) would have resulted in success for the claimant³⁷. Disabled people can already complain about employers discriminating in relation to pension schemes, but we are not aware that any of the above cases were on these grounds. We are also not aware of Pensions Ombudsman cases during that period resulting from the DDA. We have therefore allowed for only a small increase to the number of claims of 0.5% - by way of illustration. This would result in an

37 Information on the number of cases (1,430) was obtained from the Employment Tribunal Service, proportions are assumed from other data provided by the Employment Tribunal Service

additional 9 cases (8 successfully defended/withdrawn and one lost). The compliance cost to business is therefore estimated to be approximately **£6,400**³⁸ recurring per year.

Cost/benefit to Government: The total cost to Government from disability cases currently is £672,000³⁹. If this increases by 0.5%, then the additional cost will be **£3,360**.

Cost/benefit to employees: All disabled employees who participate in a company pension scheme stand to benefit from this change.

- 2.28 The DRC and Health and Safety Executive (HSE) will work together to identify employers concerns and address them. Better guidance and information would then be produced. This would help to alleviate misunderstandings by employers and bring benefits to disabled employees. To date, 56 cases have been defended by employers on the grounds of health and safety justifications. This could fall if guidance was clearer.

Costs benefits to employers: Clearer guidance would benefit employers.

- 2.29 The DRC will review the need to produce guidance on how employers can anticipate the need for adjustments. This implies some potential benefits to disabled employees if employers make anticipatory changes. There will be no obligation on employers to make changes. Indeed, there are potential savings if employers learn from the guidance that making accessibility changes when they refurbish or introduce new systems can be cost-effective.

Cost/benefit to employees: Employees will benefit if anticipatory changes are made.

Cost/benefit to employers: Employers can make savings if they incorporate accessibility changes into other refurbishments.

38 Initial results from research commissioned by the DTI suggest that employers incur a total cost of £800 (including time spent by management and other staff) for a successfully defended employment case

39 The Employment Tribunals Service handled 91,913 employment cases of all jurisdictions in 1998/99 at a total cost of £43.2m. 1,430 disability cases represents 1.6% of the total. Therefore, 1.6% of the total cost (which implies £672,000) is attributable to disability cases

2.30 The DRC will be able to bring an action against employers who bring pressure to bear on people to commit an act of unlawful discrimination. This will benefit disabled employees and other employees who have been pressured to act in an unlawful way. However, judging by the slight use of the similar power in the SDA and the Race Relations Act (RRA), this new power is unlikely to lead to many actions and therefore will not impose significant costs on either the public sector or employers.

Cost/benefit to employees: There will be a general benefit to employees who are pressured to discriminate and to disabled employees who suffer such discrimination.

2.31 These are a range of issues which will be affected in an as yet equivocal way by the Article 13 Employment Directive and so will be consulted on later and separately. Hence, no direct costs are implied at this stage.

3. Access to Goods, Facilities and Services and Sale, Letting and Management of Premises [Paras 3.69 to 3.83 of main document]

3.1 Many of the recommendations on Part III suggested further monitoring and reviewing by the DRC as part of their ongoing review of the DDA. Part III has been implemented in stages, the last of which comes into force in 2004. Therefore, significant changes were not generally proposed.

3.2 The reserve power to lower the limit of 'six persons' for the small dwellings exemption will not involve any costs or benefits at this stage. However, if legislative change were eventually proposed, using the planned regulatory power, a separate RIA would be produced.

3.3 There will be a voluntary approach adopted to the issue of joining private clubs including the making of reasonable adjustments. Prior to the production and issuance of DRC guidance, questions about the extent of discrimination are being asked as part of a joint DRC and DfEE research project.

Cost/benefit to Government: The DRC and DfEE research project is already funded and underway so there will be no additional cost. There will be subsequent production and dissemination costs of the voluntary guidance.

Cost/benefit to private clubs: If a voluntary approach is adopted then there will be no direct costs to private clubs, yet they will have to meet the costs of any adjustment they make.

Cost/benefit to individuals: If private clubs do make adjustments then there will be subsequent benefits to disabled individuals.

- 3.4 The effect of the recommendation that legislation should extend to all functions of public authorities is equivocal. It is dependent on the extent of functions covered by the extension, the nature of the duty and the other relevant factors to be taken into account when considering whether adjustments are reasonable.
- 3.5 At present, landlords and managing agents have no duty to make reasonable adjustments to accommodate the needs of disabled occupiers of the premises. Some landlords and managing agents are already considered as service providers (service providers are those involved in a business or organisation which provides a service or offers facilities to the public), and hence, are already covered, in a different capacity, by the provisions of Part III of the DDA. Under the proposal, all landlords would be covered by these provisions and they might have to provide auxiliary aids or services, where reasonable. For example, they may have to read out letters to a person who is blind, or consent to reasonable adjustments on their properties. Landlords, will however, only have to do what is reasonable. For example, it may not be reasonable for a small landlord to provide a sign language interpreter.

Cost/benefit to landlords: Landlords and managing agents will have to make reasonable adjustments to practices, policies and procedures and provide auxiliary aids where appropriate. There is a range of adjustments that might be made. These include, providing information on cassette or spending additional time explaining a contract to a tenant. Changes such as the latter are unlikely to incur a direct cost.

Some of the landlords and managing agents will also be service providers in a different capacity and may already offer auxiliary aids. There are approximately 2 million private lettings, 26% of these are by landlords with one letting⁴⁰. Therefore, there are approximately 500,000

landlords who let only one property. These landlords are unlikely to be service providers as well. However, they only need to make adjustments where reasonable. Hence, the overall cost of this recommendation is unlikely to be significant.

There should be no significant cost to consenting to reasonable adjustments on properties. However, if consent is refused, the decision may be tested in courts imposing associated legal costs on landlords and managing agents. The actual effect will depend on individual circumstances and what is reasonable in those circumstances.

Cost/benefit to Government: There may be associated costs for local authorities who rent out houses, but since they are likely to be adopting a good practice approach and are already providing reasonable adjustments for their employees and members of the public using other services, those costs are likely to be negligible.

Cost/benefit to disabled individuals: There will be benefits to disabled individuals in that their dealings with landlords and managing agents will be more effective and efficient and they may be able to make adjustments which make disabled people's use of the premises easier.

4. Tackling Barriers in the Provision of Services and Equipment [Paras 3.84 to 3.90 of main document]

- 4.1 The Government has commissioned research on disabled people's experience of services and equipment, the outcome of which is likely to be recommendations for improvement.

Cost/benefit to Government: There will be research costs initially but in the longer term there should be benefits from a more efficient use of publicly funded services and facilities.

Cost/benefit to individuals: Joint working will result in a more efficient service for disabled individuals.

Annex B: Summary of Quantifiable Costs and Benefits

Business

There are clear benefits to business:

- improved retention of disabled staff
- clearer guidance on health and safety issues
- better able to anticipate adjustment changes

There are a number of quantifiable costs to business:

	£ one-off	£ recurring
extension to cover HIV/cancer	-	37,800
removal of the small business exemption	2,608,000	2,100,000
business partner workplace adjustments	270,000	-
extension to cover barristers	1,461	4,383
extension to ships, aircraft and hovercraft	12,165	36,495
extension to former employees	-	6,400
extension to take occupational pension cases to tribunals	-	6,400
TOTAL	2,891,626	2,191,778

The cost per business for **small businesses** of removing the exemption is **£3.92**⁴¹.

The cost per business for **all businesses** (including small businesses) of all other proposals is **£0.30**⁴².

41 See Annex A

42 The cost, excluding the small business exemption is £375,104. At start 1999, there were approximately 1,353,000 businesses with employees. (Source: Small Business Service) Hence, the cost per business is approximately 30p

Government

There are a number of quantifiable costs to Government: as an employer, as the body responsible for the Employment Tribunal Service and as a provider of research, guidance and advice.

As an employer the costs are:

	£ one-off	£ recurring
extension to cover police/prison/ fire officers	30,840	92,520

The costs for undertaking more cases through the Employment Tribunal service are:

	£ one-off	£ recurring
additional cases for HIV/cancer	-	4,704
additional cases due to small business exemption	-	181,440
additional cases to cover police/ prison/fire officers	-	6,720
additional cases to cover ships, aircraft and hovercraft	-	26,880
additional cases to cover former employees	-	3,360
additional cases to cover occupational pension trustees	-	3,360
TOTAL	-	226,464

Employees

There are two main benefits to employees and individuals: first, an extension of the coverage of the DDA to include more employees or individuals; and second, greater protection for those covered by the DDA.

The benefits to disabled employees and individuals are as follows:

	Number
extension to HIV/cancer	16,000
extension to small business	382,000
extension to business partners	180,000
extension to police/prison officers	20,560
extension to barristers	974
extension to ships, aircraft and hovercraft	8,110
TOTAL	607,644

Greater protection for those covered by the DDA:

coverage of all former employees	anyone victimised after employment
power to order reinstatement	anyone dismissed in a discriminatory way
coverage of occupational pension schemes	all discriminated against by such schemes
reduction in pressure to discriminate	all in employment who may be pressurised
more effective and efficient dealings with landlords	all individuals with a landlord
more efficient access to public services and equipment	everyone who needs them

Annex C: Summaries of Focus Group Findings on Implementation Timetable

Focus group with 9 participants:

The consensus was that the most sensible course would be to introduce both customer and employee provision *at the same time*, since this would:

- (i) keep it simple;
- (ii) eliminate the need to classify businesses according to type, regarded by some as a potentially fractious exercise;
- (iii) obviate the need for two rounds of potential adjustments;
- (iv) eliminate confusion as to whether a business was or was not fully complying with regulations – or whether customers only were covered (only partially recognised by respondents).

Two focus groups with 13 participants plus phone survey of 20 others:

- Of the 33 companies, only 3 felt that it might be helpful to phase the implementation, eg. delay for companies which never served the public.
- All the companies agreed that phasing the implementation would lead to confusion over which businesses were covered at what point.
- All of those questioned felt that it would be 'fairer' if all businesses had to comply with the threshold removal from the same date.

Notes:

Notes:

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