

Disability Rights Commission



Employers

Service Providers

2004 – what it means to you

A guide for service providers



Change by • advice • conciliation
• legal enforcement

Open 4 All
2004

Open for All campaign

1st October 2004 marks a landmark for disabled people. From this date anyone providing a service will have to address those physical features which make it difficult for disabled people to use their services.

This will mean that service providers – including shops and restaurants, pubs, clubs, gyms, swimming pools and hospitals – will all have to make “reasonable adjustments” to their premises or the way they provide their services to ensure they are not unreasonably difficult for disabled people to use.

The Disability Rights Commission (DRC) has launched a campaign across England, Scotland and Wales to highlight what service providers should be doing to make their services accessible.

Disability Right Commission

The DRC is an independent body, established by Act of Parliament to eliminate the discrimination faced by disabled people and promote equality of opportunity. When disabled people participate – as citizens, customers and employees – everyone benefits. So we have set ourselves the goal of “a society where all disabled people can participate fully as equal citizens”.

Are you encouraging disabled customers?

Can disabled people use your business or services?

Are you ready for the new legal duties which come in in 2004?

Unless you can give a 100% “yes” answer to these questions then read this guide.

You already have a duty to make changes to the way you provide your services to disabled people. From October 2004 these duties will become wide-ranging.

You need to be ready for these changes and ensure that not only do you meet your legal duties but also you don't ignore all those disabled people who are potential customers.

Introduction

If you provide a service to disabled people you have duties to them under the Disability Discrimination Act (DDA). You already may have had to make changes to the way you deliver your service if it is difficult for disabled people to use.

The duties have been introduced in three stages:

- since 2 December 1996 it has been unlawful for you to treat disabled people less favourably for a reason related to their disability
- since 1 October 1999 you have had to make “reasonable adjustments” for disabled people, such as providing extra help or making changes to the way you deliver services
- from 1 October 2004 you may have to make other “reasonable adjustments” to the physical features of your premises to overcome barriers to access. The Disability Rights Commission (DRC) advise you to start planning now for these changes and we strongly recommend an “inclusive” approach (see page 6 for details).

The DRC have produced a Code of Practice about your duties from 2004 under the DDA. This is a legal document that has to be taken into account by the courts where relevant.

It gives you guidance on how you should carry out these duties. It is available from TSO (0870 600 5522), price £13.95, in a range of formats. You may think these duties are daunting but they are quite straightforward. They will bring you more business from disabled people and others.

Disabled people have £50 billion a year to spend on goods and services – that’s a lot of customers with money to spend.

As well as the Code and this leaflet, the DRC produce other publications to help you. These include a Practical Guide for Small Businesses and leaflets illustrating the duties for a range of service providers; for example, cafes, newsagents, hairdressers and small shops. These are available to download free from the DRC website: www.drc-gb.org or order from the Helpline.

Frequently asked questions

Who is a service provider?

Anyone who provides a service to the public or a section of the public is a service provider under the Act. So most services are covered. There are a few exceptions: private clubs where there is a proper selection process for members, transport (which simply means the transport vehicle, not everything else connected with the service such as stations, airports and booking facilities).

So, if you provide a service it is likely you are covered by the 2004 duties and if you aren't sure, then the safest option is to assume you should be adjusting your services.

The 2004 duties say that service providers should make reasonable adjustments to physical features but what is a physical feature?

Here is a long but not exhaustive list: steps, stairways, kerbs, exterior surfaces and paving, parking areas, building entrances and exits (including emergency escape routes), internal and external doors, gates, toilet and washing facilities, public facilities (such as telephones, counters or service desks), lighting and ventilation, lifts and escalators.

It is important to realise these features aren't just buildings or indoor facilities. They could include seating in the street or a pub garden, stiles and paths in a country park, fixed signs in a shop or a leisure facility.

Your duty is not just to put a ramp at the front entrance of your building (although that may be a useful thing to do) but to look at all aspects of your services and consider what changes you can make to the full range of physical features. You may plan a number of changes as part of a refurbishment or a continuing access improvement programme. What might not be considered a reasonable adjustment now, could

well be considered reasonable in future. Access should not be considered once and then forgotten.

I am expected to make “reasonable adjustments” to these physical features but what is “reasonable”?

There is no definitive answer. The law uses this phrase to give some flexibility and allow different solutions in different situations. The Code of Practice advises that “reasonable” may vary according to the:

- type of services provided
- nature of the service provider and its size and resources
- effect of the disability on the individual disabled person.

Some factors when considering what is reasonable are:

- whether taking particular steps would be effective in overcoming the difficulty that disabled people face in getting access
- the extent to which it is practicable for the service provider to take the steps
- financial and other costs of making the adjustment
- the amount of disruption caused by taking the steps
- money already spent on making adjustments
- the availability of financial or other assistance.

A small beauty salon has a step at the front door and limited space inside. The owners employ only one beautician and have already put handrails by the front steps and lowered the height of the entrance bell. They have read the DRC Practical Guide for Small Businesses and have met their local access group. They have drawn up a list of changes and have decided to remove immediately the large mirrors in the foyer that confuse people with a visual impairment. They have decided that when they redecorate they will improve the colour contrast and other facilities such as door handles, signs and facilities in the toilet.

A large leisure centre with many facilities hasn't improved access for disabled people at all. It also has a step at the front door and most of its facilities would be difficult for some disabled people to use. The owners would need to have an access audit done and draw up an access plan to make some changes immediately and add others to their refurbishment programme. They might have to make the main entrance accessible to all disabled people and make major changes to improve access to other services and facilities.

How should I deal with a physical feature that is making it difficult for disabled people to use my service?

The first thing is not to be daunted. There is lots of help available and you are in a good position to equip yourself with information and then make your own decision. The most important thing is not to wait until a disabled person cannot use your service. You are expected to anticipate the reasonable adjustments you may need to make and plan ahead. Even though the section of the Act about physical features doesn't come into force until 2004 it makes sense to plan for them now.

How you do this depends on your situation but the DRC would definitely recommend having an access audit done to highlight where the real barriers are. Access audits are detailed inspections and reports on buildings undertaken by an experienced access auditor which highlight the barriers for disabled people and offer practical solutions. Armed with this information you can take control of the situation and plan changes that will really be effective for disabled people and other customers.

Once you know which physical features may make it difficult for disabled people to use your service then the law gives you a choice. You can remove that feature, alter it, find a way of avoiding it or provide the service another way.

The DRC strongly recommends that you consider removing the physical feature or altering it. This is often the safest option because it is the most likely to make the service accessible. It means that disabled people receive the services in the same way as other customers. This is called an “inclusive” approach. Removing or altering physical features does not always have to be expensive. For example, the way that display units are set out in a shop may make it difficult for disabled people to use the service. Simply rearranging the display units may make a tremendous difference. Improvements to the lighting could also make the service more accessible. This could be done immediately or when you are refurbishing that area.

What if the building has already been approved by the building regulations people?

Some newer buildings already meet the building regulations, including Part M (in England and Wales) and the dispersed Part T (in Scotland) covering some aspects of access for disabled people. For these buildings you may still need to consider alterations under the Act. For example, the approach to the front door and its width should have already met the detailed requirements of these building regulations

and therefore not have to be altered for 10 years from when they were installed. But other aspects, such as the weight of the door or the handles or colour contrast may still need to be adjusted.

The Part 3 Code of Practice gives full information on what the building regulations cover, but you should **not** assume that you have met your duties to disabled people because your premises meet the building regulations.

2004 is a long way off. Do I really have to start thinking about this now?

You do not have to consider changes to physical features until October 2004. But this delay is to give you time to start identifying changes and prepare for them. The period before October 2004 is a time of transition and if you don't use it to prepare, the courts may take this into account when deciding whether you have acted reasonably.

The DRC recommends that you start planning now.

You are more likely to be able to comply with your duty to make adjustments to physical features if you arrange for an access audit of your premises and draw up an access plan. Acting on the results of the audit may reduce the likelihood of legal claims against you.

It is important that you take into account the needs of a range of disabled people and don't rely on stereotypes. It may help if you involve local access groups or organisations of disabled people.

Summing up

- You already have duties to make reasonable adjustments under the DDA, particularly to consider policies, practices and procedures and provide auxiliary aids or services where these would help access for disabled people.
- From October 2004 these duties will be extended. You have to consider how to deal with physical features that are making it difficult for disabled people to use your service. The DRC recommends you start to plan now for these changes and adopt an inclusive approach.
- The DRC is here not just to help disabled people but also to help you as a service provider. Please feel free to contact us and use our Helpline services. We have produced a range of publications to help you with the 2004 duties and these are available from the Helpline.

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Alternatively you can contact our Helpline about this publication or any other aspect of our work by phone, fax, textphone or email.

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You can contact the DRC Helpline by voice, text, fax, post or email. You can speak to an operator at any time between 08:00 and 20:00, Monday to Friday.

If you require this publication in an alternative format and/or language please contact the Helpline to discuss your needs. It is also available on the DRC website: www.drc-gb.org

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