### Equality and Diversity Impact Assessment

This policy has been Equality and Diversity Impact Assessed in accordance with the Department’s Equality and Diversity Impact Assessment Tool against:

**Part 1 Assessment Only (no diversity impact found).**

**Aim:** Designing for the needs of disabled people is particularly challenging on the Defence Estate. The aim of this practitioner guide is to provide a usable summary of the aims of statutory legislation and to highlight MOD policy with regard to providing accessible buildings and facilities. It is intended that further supplementary guides will be published to cover specific technical issues concerned with providing access for all.

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1. Disabled Access on the Defence Estate

The MoD estate is large and contains a diverse number of building types, of differing ages and condition. In conjunction with this it is a pre-requisite of employment that armed service personnel are required to be physically fit. Giving consideration to the aforementioned, the large number of Defence establishments and the potentially high investment required to undertake all potential disabled adaptation works necessitates that informed judgement to assess the necessary provision to achieve compliance.

Also of key consideration with the current operational climate, is the requirement to address the consequence of armed service personnel injured in combat returning for rehabilitation and potential redeployment in the UK. The potential long-terms consequences of this redeployment, and the need for Defence establishments to anticipate and flexibly facilitate provision of facilities for the disabled, which must include Civil Servant employees, visitors and contractors have to be very carefully considered, and incorporated in forward Defence development strategies. These strategies will benefit from the input of welfare groups – examples of which are listed in Annex C. It is also recommended that the advice of the Occupational Therapists at Headley Court Rehabilitation Centre be sought when it is known that there is a requirement.

The Equality and Human Rights Commission, EHRC) recommends having an access audit done to identify barriers and for them to be documented within an access plan. Whilst this is not a legal requirement, the views of the EHRC are likely to be taken into account during any potential legal proceedings. It is also important to note that “access” is not a one-off exercise and as circumstances change there will be a continued requirement to assess its suitability. As an alternative to altering premises, where access requirements may be minimal, it may be reasonable to consider managing the requirement in another way as long as the individual(s) concerned are not disadvantaged.

2. Relationship with Part M: Building Regulations

The Disability Discrimination Act (DDA) aims to prevent people with a disability from being put at a substantial disadvantage in comparison with other people and can therefore be viewed as ‘person specific’. Although DDA and the Building Regulations are linked in their objectives the two are inherently different in their scope and application.

The Building Regulations 2000 apply when building work is being carried out – ‘building work’ can include new-build, alterations and extensions to existing buildings and also refurbishment work. The ‘trigger’ for compliance with Building Regulations only comes into effect when such work is carried out. This is a fundamental difference to the DDA which is aimed to prevent discrimination to the person. Ways with which to comply with both DDA and Building Regulation requirements can involve the use of ‘shared’ technical guidance such as Approved Document M (2004 Edition) and other related standards such as BS8300 – however compliance with Building Regulations does not infer compliance with DDA and vice versa.

Building Regulations outline minimum ‘reasonable’ standards for accessibility and are intended to cover general issues such as the approach to buildings, physical features in and about buildings, and the provision of facilities within buildings. There are many considerations regarding accessibility that the current version of Part M may not address fully when considering obligations under DDA.

However, with regard to Part III of the DDA in respect of ‘physical barriers’ in and about buildings operated by ‘service providers’, existing work to such buildings which was covered by the 1992 and / or 1999 editions of Approved Document M will not have to be changed under DDA for a period of 10 years following completion of those works. This is not a blanket exemption nor would it include items not covered by the Building Regulations but it is supported by the DDA Code of Practice, May 2002.

Another important difference between Building Regulations and DDA applies where existing buildings are not compliant with Approved Document Part M – in these situations, where building work is
intended to be carried out – (unless a change of use is proposed) provided that the work does not
make the situation any worse no further requirements can be made under Building Regulations to bring
the building up to current day standard, whereas DDA would still apply to the building as a whole and
may attract further requirements.

Design & Access Statements accompanying Planning Applications should be developed further
through the Building Regulation Approval process and these can form an important part of ongoing
access audits for buildings following occupation / completion of works.

Further guidance with regard to the application of Building Regulations on the Defence Estate can be
found in Technical Bulletin No TB01/26. Whereas applications for determination and/or relaxation can
be made in respect of Building Regulation requirements when carrying out building work, no such
facilities are available for DDA requirements therefore such applications cannot be provided to justify
non-conformities under DDA. (Applications for Determination against the requirements of the Building
Regulations should be made to the DE Head of Building Standards)

3. Designing for the Disabled

Consultation:

The former Disability Rights Commission strongly advised early and effective consultation with
staff/users on issues arising from employment, access to Defence facilities and the service provision.
They are the public face of the facility and can often identify good and bad practice and help to ensure
that reasonable measures are put in place. Early consultation is good practice and mitigates the risk of
work being carried out that is later found to be unsuitable. Local access groups and the DAF’s
(Disability Action Forums) posses both the commitment and knowledge to assist with any local
consultations.

Risk Associated with Different types of Defence Accommodation:

On the Defence estate there are building types where members of the public and civilians with
disabilities will be required to gain access. These building types include mess buildings, offices, sports
facilities etc. The building types identified are not exhaustive and it should be noted that the type of use
drives the DDA risk. Where buildings fundamentally change use, material risk will also change.

For Single Living Accommodation (SLA) the risk of prosecution (by individuals or groups) due to non-
compliance with the DDA is relatively low. This is because service occupants are likely to be fit and
able bodied. Additional provision for SLA includes for example disabled bathroom/toilets, adaptable
accessible bedrooms and full access to ground floors. Passenger lifts should be provided to all new
facilities; where this is not proposed then a request for Determinations should be submitted to the DE
Head of Building Standards. Where full access is not provided to all floors it must be ensured that there
are no unique facilities that are inaccessible for someone with a disability. Where access is provided
above ground floor for people with disabilities it must be ensured that adequate means of escape
provision are provided; this will require consultation with the Project Fire Officer and Building Control
Advisor (see later section on lifts and vertical circulation). It is important to consider wider users of the
building such as civilian contractors, guests/family and occupants with short term injuries.

For specialised military workshops, the risk is also quite low because it is unlikely disabled people
would be working in these workplace environments. The risk will be higher for non specialised storage
facilities due to higher level of civilian use. With the significant levels of change and increased
development of PFI and commercial operation on the Defence estate the use of buildings and the
increased likelihood of disabled access require regular informed review.

For ancillary accommodation such as Offices/HQ's etc the risk is higher - as civilians with disabilities
are likely to be employed. There is also the need to cater for visitors and on occasion, the public. Full
provision should therefore be considered. Relatively few Defence building types are accessible to the
public – but increasingly Physical Recreation and Training Centres (PRTCs) and Primary Health Care Centres cater for public as well as military use. These types of buildings will require careful assessment in terms of designing for people with disabilities. Military Museums and Messes used by the public and for functions also fall into this higher risk category. Historic buildings (of which there are many on the Defence Estate) pose additional accessibility challenges.

The Volunteer Estate has specific requirements. For example parent and child separation is distinguished in the provision of toilet facilities; cadets, reservists and reserve force leaders may be disabled; facilities need to cater for parents who may be disabled; and wider community use of facilities may necessitate additional access provision as compared to the regular Defence #estate. Hence the risk associated with the non provision of such facilities is high.

Hard-to-Access Defence Facilities

The Defence estate features highly specific and unusually designed accommodation such as underground bunkers designed and built during the cold war. These types of structures have safety issues; for example a single staircase as a means of escape. This type of long escape stair may be inherently unsuitable for the physically disabled user and impractical to modify. Also for these types of facilities the Defence fire authorities may only allow the employment of able bodied people in the Bunker – i.e. those who are sufficiently able to get up and out of the Bunker (via stairs) in 3 minutes – that means each person must be relatively fit and independent - and because of these circumstances decisions have been taken not to employ Service persons in the Bunker who are in any way unfit to safely evacuate. In this way a responsible judgement to balance H&S considerations with DDA legislation has occurred.

Up until recent times, the departments that worked in these types of facility were almost exclusively filled by Service personnel and therefore able bodied. However, due to HQ amalgamations and rationalisations, there are now departments in these types of facilities which employ civil servants and civilian contractors. In such circumstances – to avoid the risk of employing physically disabled personnel in the unsafe underground environment – a risk assessment should be carried out to seek alternative ways of enabling their employment within that establishment – e.g. remotely from an office above ground. This assessment will require the close cooperation of H&S and access experts in finding well-judged solutions to fit the circumstances.

Staff Training:

Employers have vicarious liabilities under the DDA and should ensure that all staff including those who are sub contracted to provide, for instance, catering and caretaking, have the appropriate training. For MoD this can bolster mandated Equal Opportunities training.

Design and Access Statements:

A Design and Access Statement is a report accompanying and supporting a planning application or application for listed building consent to illustrate the process that has led to the development proposal, and to explain and justify the proposal in a structured way. Guidance in respect of what to include in your Statement and how it should be structured can be found in DCLG Circular 01/2006 and from the Center for Accessible Environments (CAE) under Design and Access Statements. Although addressing wider issues of access Design and Access Statements, nevertheless, help provide a good basis for an establishment strategy for disability access and can be developed further to form the basis of ongoing access audits. A developed Access statement is a requirement under Building Regulations.

Service and Premises Audit:

Having confirmed the risks and what is required an assessment of practices and procedures as well as environmental features associated with these activities should be carried out. This applies not only to existing buildings but also for design reviews of planned new buildings or refurbishment works.
Examples of Key Auditable Issues for Consideration

This takes into account not only arrival, departure, parking and drop off but also access across the site to other buildings and functions.

For example; level pedestrian access to the front door (and emergency egress), is essential and, access to hard court facilities (such as tennis courts) for users is also important. Where level access is impeded there should be appropriate parking and drop off arrangements with management policies or travel arrangements to help circumvent any difficult pedestrian access. Allowance should also be made within the scheme for the future installation of a platform lift when the technology is more sustainable and expectation and accessible transport provide the demand.

Questions to consider are:

- What is the Defence establishment DDA risk, and has this been expertly and independently verified?
- How many people with disabilities are arriving and by what means, walking, cycle, bus, minibus, taxi or car?
- How many vehicles need to be on site at once?
- Where is the nearest bus stop to access the main entrance?
- Where is the predominant catchment zone?
- What does the travel plan say?
- Where are public facilities (i.e. sports grounds) located and how are they accessed?
- Is there a road access which can be used for athletic and sporting events for disabled spectators to watch?
- Can the establishment purchase a buggy to use at events?

Travel Distances:

Travel distances around establishments, timetabling and changeover times will require a strategic analysis of the location of buildings, appropriate sanitary facilities and the correct location, size and number of lifts.

Lifts and Vertical Circulation:

Lifts are essential for vertical circulation of wheelchair users. However they are used by a much larger population including people with visual impairments, those with ambulant disabilities, arthritis, or people with limited stamina where stairs could be, frightening, overly time consuming or problematic. Consideration must be given to the type of lift installed within a building ie passenger lift car, lifting platform or wheelchair platform stair lift (further guidance is provided in Approved Document M of the Building Regulations and BS 8300). The lift chosen will be dependent upon such factors as the age of the building and its use and occupancy levels. It should be ensured that the lift is fit for purpose and is technically feasible to install. Consideration must also be given to the need for protected lift(s) or disabled refuges for emergency egress as non fire rated lifts cannot be used for fire evacuation purposes. Consultation will be required with the Project Fire Officer and Building Control Advisor.

To be able to prove that the anticipated needs have been met a flow analysis should be completed for peak change over times. This would require information on the operation of the building, anticipated numbers of visitors and staff. A safety risk assessment looking at the manual handling risk may well support the need for a lift to be provided.

Toilets and Change Facilities:

Access to toilets is one area which cannot be ‘managed away’ and so providing the appropriate size and type of facility is essential.
What is needed is a variety of facilities to suit as many people as possible giving due cognisance to the users of the facility. Many disabled people are not wheelchair users and can access standard provision within reasonable travel distances. Independent and assisted provision may be required.

The important aspect to bear in mind is that there is a requirement to ensure that disabled people do not have to travel further than able bodied people and that distance should be no more than 40m when there is an obstruction. For staff and visitors a design review should identify these obstructions and providing the 1.5 x 2.2m unisex wheelchair accessible toilet as detailed within BS8300 is likely to be reasonable.

However when considering establishment needs it is necessary to look at the whole aspect of disabled use including any special equipment, hygiene, physiotherapy or medical needs – for example:

- The level and type of sanitary facilities need to consider travel distances, age of the personnel, numbers and the make up of establishment population. If a person has a large wheelchair with a turning circle of 1800mm they won’t fit into a standard toilet.
- For sports facilities changing facilities need to be accessible for staff, users and for third party use.
- Can changing facilities, for example, cope with two teams of wheelchair basketball players? Sport England guidance gives levels of accessibility against the size of facility.
- Are the changing facilities located to easily access external pitches in out of hour use?

**Communication:**

People with hearing impairments may use a variety of methods, lip reading, hearing aids, sound enhancement and sign language, or a combination. Having good acoustics and lighting are the most important elements to communication.

Sound enhancement systems come in a variety of types, loop, infra red, sound aids and development is continual. Each has their own advantages and disadvantages both in terms of technology and usage. Pager systems such as deaf alerter will be more common place allowing hearing impaired people to receive information about fire alarms, messages, etc.

Signage and Way-finding needs to be considered throughout an establishment and needs to follow accepted good practice such as the Sign Design Guide.

Questions to ask:

- Is there access to IT?
- Is there a sound enhancement strategy?
- Does the lighting strategy ensure good even light including externally?
- Is there a signage strategy?

**Evacuating the Building:**

Managing the evacuation of disabled people is the responsibility of service provider/employer not the fire service.

The fire evacuation strategy should provide personal evacuation plans for all staff and visitors. Evacuation measures should consider all disabilities including those with visual, hearing and physical impairments and those with learning disabilities or mental health issues. Some aspects to consider;

- Flashing beacons, pager systems or the illuminated guide rail system can be used.
- Increasingly using lifts to evacuate disabled people is being considered but needs to be managed effectively – this must be done in agreement with the Project Fire Officer and Building Control Advisor.
• Installation of a fireman’s lift, despite this being more expensive than a standard lift for evacuation during a fire alert.
• Corridor widths reflect the possibility that disabled people may potentially evacuate in the opposite direction.
• Make sure that fire zones do not fall on security door locations as this will make the required opening strength for the doors more problematic for people with limited strength.
• Consideration must be given to the use of open riser escape stairs as they may be unsuitable for many people with mobility issues.

Third Party Usage & Facilities Management:

For third party usage the responsibility for ensuring compliance with the requirements of the DDA rests with those operating the services. Further consideration:

• For community use can visitors access the lift and toilets out of hours?
• Do the sports facilities provide accessible changing for teams of disabled players or disabled referees?
• Does the sound enhancement strategy provide fixed loops and how many? Or does the building manager know which rooms to set up the portable loop and how too? Is the loop tested to check it works?

For those providing facilities management and the provision of catering, maintenance and caretaking it is essential that they are aware of their obligations. Questions to ask;

• Have all staff had disability awareness training?
• Can visitors access sports fields?
• Can wheelchairs users sit in a variety of spaces?

Historic Buildings:

The MoD has the largest number of statutorily protected historic buildings in Government – and because of the extent and diversity of the Defence Estate - some are located in remote and inaccessible locations. The MoD therefore has similar issues to English Heritage and other statutory heritage bodies and heritage owners in aiming to provide access to their properties and services, in conformity with the DDA.

Whilst the DDA does not override existing conservation legislation historic monuments for listed buildings and conservation areas they will continue to require statutory heritage consent(s). Accordingly the DDA obliges heritage bodies and owners to carefully consider the management of their properties to ensure suitable access for disabled persons.

Where conflicts arise normal liaison channels should be followed – for example with the Government Historic Environment Advisory Unit (GHEAU).

Urgent Minor New Works (MNWs):

A key aspect of delivery in support of disabled access requirements is to expedite MNWs in support of Reasonable Adjustments.

Examples of MNW to improve access for disabled persons to services could include:

• Improvements to doorways, ramps, staircase, and lifts;
• Provision or improvements to toilets and washroom facilities;
• Better located drop-off arrangements;
• Improvements to external paved areas;
• Improvements to lighting and colour differentiation;
• Improvement to immediate workspace environment.

To avoid unnecessary delays each contract should have special provision for the delivery of such modifications and adaptations. These adaptations will be prioritised on a risk basis. It is essential that the relevant persons are engaged early on in the design process i.e. designers, building control advisor and the end user to ensure that the adaptations provide value for money and are fit for their intended purpose. The issue of accessibility must be considered holistically across an establishment.

4. Practical Issues during Construction

Care should be taken to ensure that the works on site are undertaken in accordance with the design brief. The list below highlights areas which are commonly overlooked and result in limited access provisions.

Toilets:
• Soil & Vent (SVP) pipe in the wrong place;
• FM provide large toilet roll dispensers resulting in insufficient space to fit grab rails;
• Not providing paper towel dispensers in the WC;
• Door is in the middle of the wall or on the wrong side for accessing transfer side;
• Panic alarm doesn’t get put in the right place;
• Heater installed in access space;
• Toilet flushing handle on the wrong side (i.e. cannot be reached from a wheelchair).

Cut and Fill:
• The use of cut and fill on site must be considered at design stage as it can have an effect on overall site levels and accessibility. It is important to note that site level and access is a requirement of obtaining Planning permission and must be documented in the accompanying planning Access Statement.

Tactile Finishes and Kerbs:
• Kerbs and tactile paving must be installed in the correct locations, using the correct designs

Level Access Showers:
• The thickness and construction of ground floor slabs must take into account when designing and installing level access showers.

Windows and Doors:
• The installation of windows giving improved ventilation must consider the impact of the windows opening more than 100mm away from the face of the wall, thus leading to the need for kerb protection.
• The use of ironmongery that is chunky reduces the clear opening and is difficult to use.
• Doors installed without space to the opening side for a wheelchair user to access and ironmongery mounted too high for easy use.

Cost Reduction:
Through the cost-reduction process there is a continual process of cost balancing, often with access provisions being removed from the design.

• The provision of platform lifts or reduced size passenger lifts being installed to new buildings
• Reduced provision and size of accessible toilets.
• Limited external access to sports fields
• Reduced external way-finding finishes
• Reduced and appropriate signage
Flexibility in Design:
Flexibility in the design is paramount. For example:

- Designs could incorporate potential future lifts positions, with pit and power supply and knock out panels
- Suitable locations for support bases and associated drop off points should be identified within the external planning so that in the future as the numbers of disabled people increase, a support base can be added with minimal inconvenience.
- The installation of a floor drain within a larger accessible toilet could provide future shower installation provision.

5. Summary

Many of the measures designed to make it easier for people with disabilities – if correctly implemented – make it easier for everyone to access and occupy buildings. As a consequence designing for disability is akin to basic good design. A key aspect of ‘access for all’ is forethought and good design.

Given the increasing reliance upon procurement methods that allow little time for design review, inclusion should form an integral part of the design process from the building’s inception to its operational policies. Care needs to be taken in the briefing and tendering process. There should be clear guidance from the client on their expectations of the building’s functions.

Defence establishments can be complex with a wide range of operational buildings and infrastructure. DDA risk is more difficult to ascertain at an establishment level. It is therefore important to ensure that access remains as a standing item in all aspects of establishment development and management.
Annexes:

Annex A:

Key Design and Construction Stages

This section addresses the type of activity related to disabled provision at the key project stages. These stages have been summarised based on the DDA Log Book system that has been developed for the Single Living Accommodation Modernisation (SLAM) Project - noting that these stages are intended for new construction rather than refurbishment. It is recommended that this staged approach is adopted as best practice for other accommodation projects.
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At the beginning of the project it is important to ascertain the level of provision existing on site and clearly state the relationship between existing infrastructure and the new requirement.

Details relating to the ongoing management of DDA duties for a Defence establishment will be essential in ensuring that the new delivery is compatible with both site management practice and the duties described in this document.

Where there is no robust Establishment strategy in place, standards such as the SLAM DDA Log Book process will give a clear statement of material considerations which can be easily incorporated into a wider strategy as it is developed.

Where a new project is to be delivered to a site the establishment will be expected to provide the following information at Project Feasibility Stage.
- Details of the Master Planning or Estate Development Plan for the site.
- The current DDA risk assessment relating to services provided.

Following the Briefing Meeting at the commencement of Outline Design Stage the following is required,
- Should the Establishment’s current DDA risk assessment be unavailable, expert assistance may be available in determining areas of risk and suitable solutions.
- A specific DDA Assessment to enable delivery compatible with the Master Plan.

For new projects – the project architects should confirm and record
- Based on the DDA Risk Assessment and Establishment strategy, at this stage it is necessary to indicate where practice and procedure will supplement physical provision to buildings to ensure corporate DDA requirements are satisfied.
- At this stage the preferred design and location option should include a report confirming in DDA terms the means by which access to services will be satisfied.

Building Regulation Part M Determinations
It is important to note that where the design solutions contained in Approved Document M of the Building Regulations 2000 (including Home Country equivalents) are not met in full, a formal determination is required to be issued by the DE Building Control Technical Authority, the DE Building Control Officer (BCO).

An Access Statement will also be
- This is a sign-off document accepting the design as agreed prior to the completion of Detailed Design and liability for ongoing risk management by the establishment.
- This shall be the subject of a formal acceptance by the establishment and it is essential that it be dated on the day of occupation to maximise the 10 year protection period under Part M.

The DDA Logbook is intended to be a living document that should be used to direct the day-to-day management of the facility with particular regard to maintenance, practice and procedure, changes in use and any changes in the legislation.

It will be lodged with the establishment who will have ongoing responsibilities under DDA.

It is essential that establishment members of staff have adequate training for their DDA duties and liabilities and are equipped with knowledge of the physical and operational aspects of the facilities in
any operational policies in respect of the intended use of premises which combines living and mess accommodation to determine interpretation of Building Regulation M, for instance in the location and availability of wheelchair accessible toilets where that facility might be shared.

In addition by the early stages of Outline Design Stage the following items should have been established:

- The site context;
- Site peculiarities;
- Topographical data;
- Planning constraints;
- Generic building design based on model;
- Specific issues to be addressed during this stage.

required providing commentary and justification for the unique provision. A list of all determinations approved by the DE BCO the Technical Authority at DE in respect of the project including local site issues should be compiled and logged for the project.

**Access Statements**

It is suggested that an access statement be complied detailing measures taken to improve access. This will be useful subsequently for Estate Development Plans (EDP’s) Planning Applications, Building Regulation and Practical Completion check.

Any site specific variables such as where approved internal colour schemes are modified at the Establishments request should be recorded. In this event project architects shall insert evidence of light reflectance factor analysis to achieve the contrast provisions of Approved Document M.

**Specific Risks Arising from Determinations**

A key part of the process is to identify risks where Part M requirements have been dispensed with and which will be the responsibility of the establishment to manage.

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It is advisable to review operational policies based on the facility in use and monitor their effectiveness.
Annex B: Understanding Disability

Recent Government figures indicate that up to 10 million adults have a disability, and one in four families, it is estimated, includes a person with a disability.

People with disabilities include those who use a wheelchair, ambulant disabled people with mobility impairments, those with sensory impairments including visual and hearing, and people with learning difficulties and mental illness.

The number of people who regularly use a wheelchair is proportionally quite low at 500,000 nationwide. A larger proportion will have mobility impairments relating not just to limb damage but also to other physical or medical conditions. Travel distance from points of arrival, choice of terrain and the strategic distribution and the appropriate design of amenities will be crucial to the safety and convenience of many of those affected. Visually impaired people are a proportionally large component of those with disabilities. Obviously there will be wide-ranging symptoms and degrees of loss associated with the restriction to their sight. Many can make out shapes and contrasts in colour or tone supplemented by other clues within the environment.

Most will rely heavily on their other senses, especially hearing and touch. Only four per cent of registered blind people have no sight at all. Way-finding and protection from hazard are the essential considerations and the availability of communication and information in appropriate media is also important.

Many people have difficulty hearing sounds clearly or screening out background noise. However, most are not ‘registered’ deaf or hard of hearing. Hearing impairment ranges from those with hearing loss to those who are profoundly deaf. Like visual impairment the incidence of hearing impairment within any given population will increase with age. There is a need to provide sound reinforcement facilities for the hearing impaired and interpretation services for the profoundly deaf and communication in a media appropriate to all of their needs.

How people with learning difficulties will understand information and find their way varies widely. If communication and way-finding systems are consistent, the use of simple terms or pictograms, prominent landmarks and easy-to-follow directions, will benefit everyone in finding their way around.

People with mental illness might feel intimidated by other people or the environment or specific situations might add to a level of anxiety. In addition to clinically recognized conditions, a very large number of people suffer from panic attacks and compulsive behaviour disorders.

Disability Discrimination Act

The Disability Discrimination Act (DDA) makes it illegal to discriminate against a disabled person on the grounds of their disability in respect of Employment and the provision of Goods and Services. Discrimination occurs when a disabled person is treated less favourably than a person to whom the definition of disability would not apply and where less favourable treatment cannot be justified.

Less favourable treatment that cannot be justified would encapsulate refusal to provide service, the provision of a reduced standard of service or unreasonable terms applied to the provision of the service. There is no requirement to provide more favourable treatment, but this may be provided if appropriate.

The Act offers protection to those who have a physical or mental impairment that has a substantial or long-term adverse affect on their ability to carry out normal day-to-day activities. It also embraces those who have had such a disability in the past and may experience discrimination as a result.

It includes specifically those with a disability in respect of manual dexterity, physical co-ordination, continence, ability to lift, carry or move everyday objects, speech, hearing or eyesight, ability to
concentrate, memory and ability to learn or understand and perception of the risk of physical danger. The Government currently estimates that up to 10 million people will be able to seek protection of the Act.

**The Disability Discrimination Act (DDA) 2005**

The Act amends the Disability Discrimination Act 1995 to create a general duty, applying to all public authorities including schools and LEAs to promote disability equality. This says that when they are carrying out their functions, they must have due regard to the need to eliminate unlawful discrimination, harassment and promote equal opportunities and positive attitudes towards disabled people. In practice, this means that they must take account of disability equality in the day-to-day work of policy-making, service delivery, employment practice and other functions.

Also under this Act, the Secretary of State (or Scottish Ministers as appropriate) may use regulations to impose specific duties on certain public bodies. The specific duties will be designed to assist key public bodies to meet their general duty. These are the duties that will really make a difference to outcomes for disabled people since they require action plans to tackle specific inequalities which will be monitored and enforced by the EHRC.

**Human Rights Act**

The Human Rights Act consolidates and provides a philosophical context within which the Disability Discrimination Act might be interpreted. For instance, Article 3 introduces 'Freedom from degrading treatment'; Article 8 the 'Right to respect for private and family life'; Protocol 1, Article 2 provides a right to education; and Article 14 'Freedom from Discrimination' (this right is activated in relation to any other Conventional Right).

**Employment and Reasonable Adjustments**

Whilst elements in respect of Employment, such as the need to make reasonable adjustments and provide equipment, came into force in 1996, the remaining provisions in respect of Goods and Services has been phased-in over a number of years.

Duties under the Act refer to individuals and any reasonable adjustments will relate to their personal circumstances. To enable an understanding of the way in which reasonable adjustment under the DDA affects employers/employees one must comprehend what constitutes less favourable treatment of an employee.

**An employer will discriminate if s/he treats a disabled person less favourably:**

- In the arrangements made for determining who should be offered employment;
- In the terms on which the disabled person is offered employment;
- By refusing to offer, or deliberately not offering, the disabled person employment;
- In the opportunities which s/he affords a disabled person for promotion, a transfer, training or receiving any other benefit; or by dismissing a disabled person, or subjecting a disabled person to any other detriment.

When does an employer have to make a reasonable adjustment?

An employer’s duty to make reasonable adjustments comes into force where any ‘Physical feature’ of the premises occupied by the employer and/or any arrangements made by, or on behalf of, the employer place a disabled employee or job applicant at a substantial disadvantage. Where disadvantage is likely to occur, an employer is expected to take reasonable remedial action. Regulations define the term ‘physical feature’ to include anything on the premises arising from a building's design or construction or from an approach to, route through, or exit from such a building, including fixtures, fittings, furnishings, furniture, equipment or materials.
Remedial action might include in terms of arrangements:

- Allocating some of the disabled person's duties to another person;
- Transferring the person to fill an existing vacancy;
- Altering the person's working hours;
- Assigning the person to a different place of work;
- Allowing the person to be absent during working hours for rehabilitation, assessment or treatment;
- Giving the person, or arranging for that person to be given, training;
- Acquiring or modifying equipment;
- Modifying instructions or reference manuals;
- Modifying procedures for testing or assessment;
- Providing a reader or interpreter;
- Providing supervision.

Remedial action might also include the adjustment of physical features to provide access to work premises and facilities. Although in some cases physical features can be circumvented by a managed solution there will be circumstances where the physical features of the buildings and their surroundings might require alteration.

The DDA does not prescribe any specific technical standards and following the guidance in Building Regulation Approved Document (AD) M is not a requirement for satisfying duties under sections 6 and 21 of the DDA 1995, to make adjustment to premises.

It should be noted, however, that under regulation 8 of the DDA (Employment) Regulations 1996 an employer will not be required to alter any physical characteristics included in a building which was adopted with a view to satisfying the requirements of Part M of the Building Regulations and met those requirements at the time the building works were carried out and continues to substantially meet those requirements (1992 and 1999 editions of Approved Document M only)

It is a test of an organisations commitment to these policies in that it ensures reasonable adjustments can be procured quickly and effectively. Fast-track procedures to circumvent delay are therefore recommended.

**Service Delivery**

Any service provided at a cost or free of charge is included.

From October 1999 service providers have been required to make reasonable adjustment to practices, policies and procedures, which would exclude disabled people, to provide auxiliary aids and services to facilitate use of a service and to provide a reasonable alternative method of service where a physical feature precludes use of the service.

From October 2004 should a permanent feature of a building make it unreasonably difficult for a disabled person to use a service, then reasonable steps have had to be taken to remove, alter or avoid it if the service cannot be otherwise provided.

The risk to service providers under the DDA is that a successful action taken through the courts would entitle the complainant to seek compensation for personal distress and might ultimately result in the requirement to carry out costly adjustments to remove the barrier to accessing the service. Liability is unlimited in respect of the level of compensation that might be awarded by the Courts.

The service provider has a duty at large in that there is a responsibility to anticipate the needs of service users and to modify any elements that might create discrimination. Liabilities are also vicarious in that the company would be held responsible for any breaches of the Act brought about by any member of their staff.
The DDA does not override any statutes or consents in respect of Planning, Construction, Conservation or Health and Safety. There are no performance standards under the Act and it cannot in effect be complied with, rather it is essential to address one’s duties in respect of its requirements.

Annex C: Further Information

General:

Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Tel: 020 7944 4400
Website: www.communities.gov.uk

Equality and Human Rights Commission Disability Helpline (England)
FREEPOST MID02164
Stratford upon Avon
CV37 9BR
Tel: 08457 622 633
Textphone: 08457 622 644
Fax: 08457 778 878
Website: www.equalityhumanrights.com

Office for Disability Issues
The Adelphi
1-11 John Adam Street
London
WC2N 6HT
Website: www.officefordisability.gov.uk

Association of British Theatre Technicians
55 Farringdon Road
London EC1M 3JB
Tel 020 7242 9200
Website: www.abtt.org.uk/

Employers Forum on Disability
Nutmeg House
60 Gainsford Street
London SE1 2NY
Tel: 020 7403 3020
Fax: 020 7403 0404
Website: www.employers-forum.co.uk

Centre for Accessible Environments (CAE)
Nutmeg House
60 Gainsford Street
London SE1 2NY
Tel: 020 7357 8182
Fax: 020 7357 8183
Website: www.cae.org.uk

National Register of Access Consultants (NRAC)
Nutmeg House
Welfare and Special Interest Groups:

Disability Steering Committee (DSC)
The DSC falls under the MoD Director General Civilian Personnel Directorate (DGCP), and many MoD Budget Holders are represented. The DSC therefore provides an important function as a group within MoD that both understands and takes a strong interest in the needs of disabled MoD personnel. Amongst many areas of interest the DSC has examined shortfalls in the design of new Defence buildings – identifying case studies as a means to improve standards in future.

Battle Back
Battle Back is a MoD Tri-Service initiative which aims to improve and formalise the use of Adventurous Training and Sport in the aftercare of wounded Service personnel in order to aid their rehabilitation and return to an active life. It was endorsed by the Service Personnel Executive Group (SPEG) on 20 Mar 2008. The Army have taken the lead on behalf of Defence, with Headquarters Land Forces (HQ LF) resourcing a co-ordination office in the Defence Medical Rehabilitation Centre (DMRC) Headley Court in Surrey from Jul 08.

Help for Heroes (H4H)
The charity Help for Heroes (H4H) was launched in October 2007 in response to the desire of ordinary people to do something practical to help our wounded servicemen and women. H4H is backed by the Army Benevolent Fund, the Army's own charity that helps soldiers and other servicemen and women both directly and through its support of other service charities.

http://www.helpforheroes.org.uk

Publications:

Guidance and Best Practice:
Specific design criteria will vary dependent upon the users. Whilst there are no strict technical criteria against which the DDA will be judged there are, however a number of relevant guidance documents (which is not intended to be exhaustive) as follows:

- The Building Regulations Approved Document Part M (outside England/Wales Home Country equivalents will apply)
- BS8300:2001 Code of Practice for the design of Buildings and their approaches to meet the needs of Disabled People (there is a revision of BS 8300 that is currently in consultation and is likely to be introduced (with minor amendments following consultation) in October 2008
- The Office for Disability – www.officefordisability.gov.uk/
- The (former) Disability Discrimination Act (DDA) and various regulations and codes
- Dulux – Colour and Contrast: A design guide for the use of colour and contrast to improve the built environment for visually impaired people
DE Documents:
- DDA Log Book system developed for the Single Living Accommodation Modernisation (SLAM) Project
- Memorandum of Understanding SLAM Project
- JSP 434 Defence Construction in the Built Environmental
- DDA PI no: 04-14 issued: 180504

Standards relating to Disability:

The following items are recognised performance standards for the achievement of reasonable provision in designing for disabled people and to advise building operators of their DDA liabilities. It is recommended that at the briefing stage a selection of standards appropriate to the project should be agreed between the establishment and the design team and documented to assist in design monitoring. The level of detail will clearly be influenced by both the risk and the scale and complexity of the project.

British Standards Institute

BS 5588 Part 8
Fire precautions in the design, construction and use of buildings
Code of practice for means of escape for disabled people

BS 8300
Design of buildings and their approaches to meet the needs of disabled people Code of Practice, British Standards Institute, October 2001,
ISBN 0 580 38438 1

BS 8502
Graphic Symbols and Signs - creation and design of public information Symbols.
British Standards Institute, 2003.

BS 7997

Department for Communities and Local Government (DCLG)
(In UK/Wales – elsewhere home country equivalent will apply)
Building Regulation Part M Approved Document.
Building Regulation Part B Approved Document

Department of Transport
Inclusive mobility: A guide to best practice on access to pedestrian and transport infrastructure.
Published: 1 November 2002, Added: 1 November 2002 , Modified: 6 May 2004

Sports England
Guidance notes on access for disabled people

District Surveyors Association
Technical standards for places of entertainment
DSA and Association of British Theatre Technicians (ABTT) 2002 ISBN 1-90403105-6

RNIB
Sign Design Guide

Equality and Human Rights Commission
DDA Codes of practice

CIBSE Guides – for example:
(Also guides covering texture, climate control, supplies and equipment)

Other related issues:
▪ Directional lighting (for use in airports, hospitals, supermarkets)
▪ Use of low surface temperature radiators (used in schools, hospitals and anywhere with people with special needs)
▪ Colour rendering for route marking (used in hospitals, airports and many complex buildings)
▪ ‘Accessible’: light switches/pull-cords, wash hand basins, sinks, drinking fountains, and food prep. areas (quarter-turn taps, knee holes below, cords and low level switches, ergonomic power supply switching)
▪ Communications for disabled refuges on stair wells
▪ Thermostatically controlled hot water supplies wet rooms in lieu of shower rooms?

Dulux Paint Company
Colour and Contrast: A design guide for the use of colour and contrast to improve the built environment for visually impaired people

JMU Access Partnership/Sign Design Society
Sign Design Guide

HSE – Health and Safety Advice for Disabled People and Their Employers
www.hse.gov.uk

This list is not fully comprehensive; the aim is to achieve reasonable provision based on the optimum specific standards from these points of reference cross-referred to operational considerations.