



Enacted in 1995 and with some provisions in force since 2nd September 1996, the implications of the Disability Discrimination Act upon 'service providers' created more stringent obligations from 1st October 2004.

WHO DOES IT EFFECT?

Any business or organisation delivering a service used by members of the public, from airports to corner shops.

WHAT IS DISABILITY?

Disability as described under the Act includes a very wide range of people from the common perception of visible, physical impairment through to sufferers of long term diseases that may not present themselves obviously.

WHAT SHOULD YOU DO?

Broadly, those of us who provide a service should ensure people who are disabled are not treated less favourably for reasons of their disability. This includes having in place policies under which the service you provide can be delivered to someone unable to use your premises without disadvantaging them. This obligation has been in place in varying degrees since 1996 but more forcefully since 1st October 1999 when the obligation to make 'reasonable adjustments', such as providing extra help or making changes in the way the service is provided, were put into place.

The 1st October 2004 saw this obligation widened such that service providers now have to make 'reasonable adjustments', not only to their working practices, but also to the physical nature of their buildings to facilitate their use.

Where there is a large organisation, such as a national airport with a high throughput of the public, it is thought likely that a test for reasonableness suggests extensive works are required. Facilities from the 'obvious' - ramped or lifted accesses, through hearing loops for the deaf and the availability of a trained British sign language translator to large print documentation for the visually impaired; the list can go on.

For the small business, such as a corner shop, it remains likely that the test of reasonableness will include whether providing these additional facilities is reasonably, physically and commercially practical.

It is seen as good practice to take the opportunity to incorporate changes during any ongoing maintenance or development progress.

Disability

Unfortunately, whilst there is an Act, there are few hard and fast rules. 'Reasonableness' is not defined in the Act and until there is a body of case law reflecting individual cases it will be very difficult to draw precise conclusions about whether a particular service provider was (or was not) taking reasonable steps.

ADVICE

The purpose of the Act is to ensure that those with disability are not made to suffer by it any further than is unavoidable; clearly a laudable intent. Unfortunately the Act does not define what specific actions you should take to guarantee compliance.

Shaun Woolford MBA BSc (Hons), Dip Proj Man MRICS, of Gully Howard Chartered Surveyors has committed to specialist training on the accessibility issues under the Act and is able to offer a service providing Access Audits on which to base your decisions together with Expert Witness services should you find yourself going to Court to settle a dispute under the provisions of the Act.



not all disabilities are quite so obvious - be aware

Discrimination Act

The legal duty is to avoid discriminating against all those suffering long-term impairment through mental, physical or biological disorder.

Those specifically excluded by the Act are :-

- Addiction to or dependency on alcohol, nicotine or any other substance (other than as a result of a substance being medically prescribed)
- Seasonal allergic rhinitis (e.g. hayfever) except where it aggravates the effect of another condition
- Tendency to set fires
- Tendency to steal
- Tendency to physical or sexual abuse of other persons
- Exhibitionism
- Voyeurism
- Also disfigurement which consist of a tattoo (which has not been removed); non-medical body piercing or something attached through such piercing are to be treated as not having a substantial adverse effect on a person's ability to carry out normal day-to-day activities.

Source: Disability Rights Commission Code of Practice

Opinions given in this magazine are the personal views of the writers. The information is given in good faith, but before any decisions are made or actions taken based on their opinions, you are strongly advised to seek detailed advice on your specific requirements, which we would be pleased to provide.

a case of stating the obvious!