



## Legal Framework

*Achieving access for all*





## Legal Framework.

### Equality Act 2010.

The Equality Act 2010 updates existing equalities legislation covering disabled people by:

- **Making life easier for disabled people at home**  
The Equality Act gives disabled people who live in rented homes the right to have reasonable adjustments made to communal areas like entrances and hallways (provided they meet the cost).
- **Helping disabled children at school**  
Schools will have to provide auxiliary aids and services for disabled pupils, for example special equipment and large-print books, where reasonable.
- **Protecting disabled people from discrimination in the recruitment process**  
The Act makes it unlawful for employers to ask job applicants questions about disability or health before making a job offer, except in specified circumstances. This will prevent employers screening potential employees to avoid recruiting disabled people.
- **Increasing the number of wheelchair-accessible taxis**  
The number of wheelchair-accessible taxis is set to increase, as the Act means a local authority that doesn't have enough wheelchair-accessible taxis in its area cannot refuse a license to such a vehicle simply because it has a policy of controlling the overall number of taxis.
- **Protecting carers from discrimination**  
The Equality Act protects people who are, for example, caring for a disabled child or relative. They are protected by virtue of their link to that person.

The Act comes into force from April 2011.



## The Disability Discrimination Act 2005.

Under the Disability Discrimination Act 2005 public bodies have statutory duties to promote equality for disabled people. The main principles of the Act are:

- To act proactively in promoting equality for disabled people;
- Extend the requirements of the 1995 Act to all functions – not just services;
- Extend the employment provisions of the 1995 Act to elected members;
- Extend protection of the legislation to people with multiple sclerosis, HIV and cancer from the point of diagnosis;
- Remove the requirement for a mental illness to be clinically well recognised;
- Increase the rights of disabled tenants and leaseholders to include reasonable adjustments.

## The Disability Discrimination Act (DDA) 1995.

The DDA 1995 introduced new laws and measures aimed at ending the discrimination which many disabled people face. The Act makes it unlawful for employers to treat disabled people less favourably than someone else because of their disability, unless there is a good reason. Organisations, as providers of services, have a responsibility under the Act to treat disabled people no less favourably than they treat other people.

Under the DDA 1995 a service provider has to take reasonable steps to:

- Change a practice policy or procedure which makes it impossible or unreasonably difficult to use a service;
- Provide an auxiliary aid or service;
- Provide a reasonable alternative method of making a service available where a physical feature makes it impossible or unreasonably difficult to use.

In addition where a **physical feature** makes it impossible or unreasonably difficult to use, a service provider will have to take reasonable steps to:

- **Remove** the feature; or
- **Alter** it so that it no longer has that effect; or
- Provide a reasonable means of **avoiding** it; or
- Provide a reasonable **alternative method** of making the service available.



## The General and Specific disability duties.

Public bodies have a legal duty to:

- Eliminate discrimination;
- Eliminate harassment;
- Promote equality of opportunity for and positive attitudes towards disabled people;
- Take steps, including treating disabled people more favourably, to take account of a person's disabilities.

This means that everyone, not just those involved in delivering services, must take account of the provisions of both the 1995 and 2005 Acts in carrying out their duties. The 2005 Act also places specific duties on the public bodies to meet the general duty. Briefly these are:

- To produce and publish a disability equality scheme and update this scheme at least every three years;
- To report annually on progress in meeting objectives;
- Assess the impact of services, policies and practices on equality for disabled people;
- Two way involvement with disabled people and show how they have been involved;
- Prepare action plans;
- Gather and analyse information.

The Council's equality strategy fulfils the Council's requirement to publish a disability equality scheme. To meet these statutory duties local authorities need to:

- Screen existing functions for priority in assessing impact on equality for disabled people and set a timetable for assessment;
  - Assess the appropriateness of existing information for meeting these duties;
  - Assess what new information needs to be gathered;
  - Assess the impact of all new services, policies, projects and strategies on equality;
  - Monitor the effect of services and policies for impact on equality;
  - Consider what measures will mitigate or overcome disadvantage or discrimination;
  - Involve disabled people in all service, policy and project planning from the beginning;
  - Ensure all those working within a local authority have relevant disability equality and/or awareness training;
  - Implement the social model of disability and inclusive design principles.
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## **Involving disabled people.**

How a local authority involves disabled people is very important. It is not good enough to arrange a one off consultation; disabled people should be involved throughout the process. Involvement should be:

- Focussed – be clear about what can be achieved;
- Proportionate – this should reflect the potential impact on disabled people;
- Reflect the diversity of disability – ensure the involvement can take account of a range of different impairments;
- Accessible – ensure that people with a wide range of access needs can take part;
- Involve relevant stakeholders – include potential as well as existing customers and take account of ethnic origin, gender, sexual orientation, religion and beliefs of disabled people.



## Partnership working.

Providing services and carrying out functions in conjunction within a partnership arrangement is becoming increasingly common. Although the legislation does not apply to partnership groups and strategic partnerships, it does still apply to the public agencies involved in the partnerships and the functions being carried out through partnership arrangements. Where services are contracted out, or a function or services is provided through another public, private or voluntary agency the statutory responsibilities remain with the public agency.

- Partnership groups must prioritise adoption of the general duties and the specific duties such as gathering evidence and impact assessment.
- The duty to involve disabled people in the planning of projects also applies.
- Statutory duties cannot be contracted out.
- Partnership work relevant to the general duty must be included in action plans.