

2004—what it means for you

A guide for service providers

Are you encouraging disabled customers?

Can disabled people use your business or services?

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

Unless you can give a 100% yes answer to these questions then read this leaflet

Service providers already have a duty to make changes to the way they provide their services to disabled people, from October 2004 these duties will become much more wide ranging.

Businesses and service providers need to be ready for these changes and to ensure that they not only meet their legal duties but also 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 DRC advise you to start planning now for these changes and we strongly recommend an 'inclusive' approach.

The DRC have produced a new Code of Practice about your duties from 2004 under the Disability Discrimination Act. This is a legal document that will be taken into account by the courts. It gives you guidance on how you should carry out these duties. It is available from TSO (0870 600 5522, priced £13.95 in all formats). You may find these duties daunting but they are quite straightforward. They will bring you more business from disabled people and others. Disabled people have £40 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, hairdressers and small shops. These are available free from the DRC 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) and educational services (but new DDA duties on these are being introduced in 2002).

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. However, 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

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 need to still consider alterations under the Act. For example, although 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 other aspects, such as the weight of the door or the handles or colour contrast may still need to be adjusted.

The Part III 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 feature 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 doesn'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.

Contact Information.

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.

Telephone 08457 622 633

Textphone 08457 622 644

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Email enquiry@drc-gb.org

Website www.drc-gb.org

DRC publications are available in a range of formats; please contact the Helpline for further information.

The DRC website provides up-to-date information, advice and links to other organisations: www.drc-gb.org

The DRC welcomes feedback. If you have any comments about this publication or any other aspect of our work, please write, free of charge, to DRC, freepost, MID 02164, Stratford upon Avon CV37 9BR. Alternatively, the Helpline would be happy to take your comments verbally, by fax, textphone, or email.

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