

Good Practice

Partnerships

## Estates

The Disability Discrimination Act Part 4

 **Educating For Equality**

## **The Disability Rights Commission**

The Disability Rights Commission (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”.

We work with disabled people and their organisations, the business community, Government and public sector agencies to achieve practical solutions that are effective for employers, service providers and disabled people alike.

There are 8.5 million disabled people in Britain – one in seven of the population. This covers people with epilepsy, cancer, schizophrenia, Down’s syndrome and many other types of impairment.

Under the Disability Discrimination Act 1995, many legal rights and obligations affecting disabled people’s access to services and employment are already in force. Others become law in 2004.

Many people are still not aware that they have many new rights. And employers and service providers are often unsure how to implement “best practice” to make it easier for disabled people to use their services or gain employment.

The DRC has offices in England, Scotland and Wales. For further details of how we can help you, please contact our Helpline – contact details are featured on the back cover of this publication.

**The DRC wishes to thank the Scottish Higher Education Funding Council for its support in publishing this guide.**

# **Estates Provision**

## **Good Practice Guide**

### **The Disability Discrimination Act Part 4**

#### **Introduction**

The DDA is extended to education from September 2002 following amendments introduced by the Special Educational Needs and Disability Act 2001. The legislation aims to ensure that disabled people have equal opportunities to benefit from, and contribute to, the learning and services available in higher education institutions.

The legislation protects disabled students, applicants and potential students. This booklet provides a brief outline of the law, and offers some ideas on approaches to compliance in estates provision and the physical environment of higher education.

A more detailed interpretation of the law can be found in the Code of Practice for Providers of Post-16 Education and Related Services available from the Disability Rights Commission (see page 14).

## **A brief outline of higher education institutions' responsibilities**

The Disability Discrimination Act (DDA) refers to the Governing Body as the "responsible body". The responsible body is legally liable for the actions of the institution as a whole, and also for:

- the actions of individual employees of the institution in the course of their employment, whether they are full, part-time or temporary
- the actions of agents, including contractors, visiting speakers etc.

It may be possible to use a defence that all reasonably practicable steps were taken to prevent staff or agents discriminating.

Individuals may also be held responsible for aiding an unlawful act if they knowingly discriminate against a disabled student or applicant.

The Act makes it unlawful to discriminate against disabled applicants, potential applicants or students. The Act uses a wide definition of disabled person. It can include people with:

- physical or mobility impairments
- visual impairments
- hearing impairments
- dyslexia
- medical conditions, and
- mental health difficulties.

Institutions are expected to take reasonable steps to find out if a person is disabled. For more information on this see the guide Finding Out About People's Disabilities (see page 13).

The meaning of student is also very wide. It includes:

- full and part-time students
- postgraduates and undergraduates
- home, EU and international students
- students on short courses and taster courses
- students taking evening classes and day schools
- distance and e-learning students
- students undertaking only part of a course or visiting from another institution.

Applicants and potential students include those attending open days or interviews, receiving a prospectus or those targeted by recruitment drives and outreach work.

Discrimination against disabled applicants or students can take place in either of two ways:

- by treating them "less favourably" than other people, or
- by failing to make a "reasonable adjustment" when they are placed at a "substantial disadvantage" compared to other people for a reason relating to their disability.

The Act applies to all the activities and facilities institutions provide wholly or mainly for students, including, for example:

- all aspects of teaching and learning, including lectures, lab work, practicals, field trips, work placements etc
- e-learning, distance learning
- examinations and assessments
- learning resources, including libraries, computer facilities etc
- aspects of the physical environment such as buildings, landscaping and equipment
- welfare, counselling and other support services
- catering, residential and leisure facilities
- careers services.

A reasonable adjustment might be any action that helps to alleviate a substantial disadvantage. It might involve:

- changing standard institutional policies and procedures
- adapting the curriculum, electronic or other materials, or modifying the delivery of teaching
- providing additional services, such as a sign language interpreter or materials in Braille
- training staff to work with disabled people and to provide appropriate adjustments
- altering the physical environment.

Under the Act, there is a responsibility to make anticipatory adjustments. This means that institutions should consider what adjustments future disabled students or applicants may need, and make them in advance.

Institutions are only expected to do what is “reasonable”. What is reasonable will depend on all the individual circumstances of the case, including the importance of the service, the financial or other resources of the institution and the practicality of the adjustment. Other issues, such as the need to maintain academic standards, health and safety and the relevant interests of other people including other students are also important.

Most of the Act is implemented from September 2002. There are two exceptions. Adjustments requiring the provision of “auxiliary aids and services” (such as sign language interpreters, portable induction loops or temporary ramps etc) are not required until September 2003. Adjustments requiring alterations to physical features are not required until September 2005. However, provision in higher education which is of a non-educational nature (for example residential accommodation and many central services) are covered by Part 3 of the Act in the interim period until Part 4 is implemented. The implementation date relating to alterations to physical features for Part 3 provision is October 2004.

The Disability Rights Commission is offering a conciliation service for students and institutions to reconcile any differences informally. If both parties do not agree to conciliation, or if conciliation fails, a student or applicant can take a case to a county court (in England or Wales) or a sheriff court (in Scotland).

## **Strategies for compliance**

### **Physical features**

The Act covers all aspects of the physical environment, including, for example:

- access to buildings, such as level or ramped entry
- emergency evacuation arrangements, such as flashing light fire alarms or vibrating pagers for deaf people, fire refuges or alternative escape routes for people with mobility impairments
- the accessibility of external paths and landscaping
- circulation within buildings, including their interior layout
- effective lighting and signage and colour or tone contrast on doors etc to aid orientation
- acoustics appropriate for hearing aid users and (working) loop systems in lecture theatres or reception desks
- desks, laboratory benches, work surfaces and receptions desks at varying or flexible heights
- appropriate seating
- access to services, such as catering facilities, or payphones in a corridor
- accessible toilets
- convenient and reserved parking spaces for those who need them.



Making all your estates provision fully accessible by 2004 or 2005 is unlikely to be a practical possibility. However, some general principles may help you make the best use of the available funding and opportunities to make your provision as accessible as possible.

## **Anticipate need**

The delayed implementation dates for adaptations to physical features is to allow estates departments and others to put in place “anticipatory” adjustments for disabled students. The lead in time also allows institutions to plan and budget for the changes they need to make. The anticipatory responsibility is an evolving one; institutions will be expected to continue to improve their physical access as time goes by. Most institutions will find the first step in this process is to conduct an access audit of current provision. An access audit:

- is the first stage in a process of improvements
- can help with anticipating need, but cannot guarantee compliance in individual circumstances
- allows institutions to prioritise and plan improvements in a practical and cost effective way
- should be carried out by a professional access consultant with an understanding of building design, an understanding of building regulations and legislation, an understanding of the needs of people with all kinds of disabilities (not just physical disabilities), and an understanding of the use of educational buildings
- should lead to a costed strategy and action plan for implementing improvements.

## **Being strategic**

To make best use of the opportunities and funding available, institutions need to be strategic. An access working group may be one way of ensuring this. At best such a group:

- will include members of the estates department, disabled users of buildings and the environment, and senior managers from elsewhere in the institution
- will set priorities for implementing an access audit's recommendations
- can take the long view about improvements and adaptations to estates
- will ensure that access issues are built into an estates strategy and the institution's overall strategy
- ensure appropriate funding is set aside to implement improvements
- can oversee building projects and adaptations to ensure that recommendations are carried out as planned
- can keep the accessibility of the institution's estate under review.

## **New build**

Take the opportunity to build in accessibility. Inclusivity should be a central requirement of all new buildings and projects, not an add on to be dropped when budgets are tight. Built-in accessibility is easier (and cheaper) than later adjustments. A professional Access Consultant can advise on plans and design to help you do this.

## **Adaptations to existing buildings**

It may take many years to ensure better access to some buildings and so short-term improvements may be one way of making access easier in the interim. Be creative about the action you can take to improve them. In particular use the opportunities provided by refurbishments or routine maintenance to introduce improvements, such as colour/tone contrast on doorways, better lighting, or flooring that is easier for wheelchair users.

## **Buildings management**

Where adaptations are difficult to introduce, problems may be solved by the way the space is managed. Even where adaptations are introduced, careful management may be necessary to prevent the benefit they bring from being eroded. In some cases, the way the estate is managed can create unnecessary barriers. It may be helpful to audit this aspect of your estates provision also. For example:

- do those responsible for timetabling and room booking systems have information about the accessibility of different buildings, rooms and facilities, including the presence of loop systems or other equipment and fixed or movable seating?
- do timetabling and room bookings systems ensure that wherever possible classes including students with mobility impairments are held in accessible buildings/rooms?
- can the space within a building or several buildings be used in different ways? Can services used by students be moved to more accessible buildings or areas?
- can inaccessible buildings be sold or otherwise released to allow more accessible property to be acquired?
- do staff ensure that accessible entrances and toilets are kept open and operational?
- is there a system to prevent parking spaces set aside for disabled drivers from being misused?
- do staff ensure that circulation routes within buildings are kept clear of obstructions that might inhibit the movement of those with mobility or visual impairments?

- do staff ensure that signs are kept up to date and in good order, and that light bulbs are replaced in a timely way?
- are staff trained in how to make adaptations and respond to disabled students' needs?

## **Access alternatives**

The solution to lack of access to a building or physical feature may not always be a physical adjustment. Where the accessibility of physical features cannot be improved for practical reasons, or cannot be improved just yet, or where changes might be particularly expensive, there may be alternative adjustments that can be made. For example:

- can technology provide alternative access to services?
- can the service be brought to the student? For example might a careers office interview a student in an alternative venue? Might a librarian fetch books for a student from high or inaccessible shelves?

## **Reasonable adjustments for individuals**

It is unlikely that every need can be anticipated. Estates departments need to be ready to make reasonable adjustments on behalf of individuals as required. Such adjustments might include:

- installing hoists or a flashing light doorbell in a room in student residences
- adapting fire or other evacuation procedures
- allocating a parking space in a staff carpark to a disabled student

- giving a student a key/swipe card to a side entrance that provides level access.

## **Leasehold premises, listed buildings status, building regulations and health and safety**

The fact that premises are owned by someone else or are subject to other regulations does not mean that the institution has no responsibility to make adjustments. Institutions are expected to do whatever is “reasonable” to ensure that students are not placed at a substantial disadvantage. This may involve:

- obtaining permission from freeholders, landlords or other authorities
- agreeing to any reasonable conditions which the landlord imposes on the consent to make adjustment
- ensuring adjustments are sensitive to historic or aesthetic requirements as well as access
- finding alternative adjustments where a particular adjustment might jeopardise health and safety.

The Code of Practice gives more information about responsibilities relating to leasehold premises.

## **Keeping services and facilities under review**

It is essential to review services periodically to take into account any changes in good practice or advances in technology. Student satisfaction surveys and complaints are often good sources of information about what improvements might be made.

## **Other resources and advice**

For general information on making adjustments for disabled students see:

### **Code of Practice for the Assurance of Academic Quality and Standards in Higher Education. Section 3: Students with Disabilities**

Available from the Quality Assurance Agency for Higher Education: [www.qaa.ac.uk](http://www.qaa.ac.uk)

### **The Coordinator's Handbook Skill (see page 15), 1997**

### **Finding out about people's disabilities – A good practice guide for further and higher education institutions. DfES 2001**

For information on physical access and adjustment:  
**Improving Access to Higher Education Estates and Buildings**  
[www.heestates.ac.uk/Resources/ManBet/Documents/  
Access\\_audits.htm](http://www.heestates.ac.uk/Resources/ManBet/Documents/Access_audits.htm)

**Making access to goods and services easier for disabled customers: a practical guide for small businesses and other small service providers**  
(aimed at Part 3 providers but also helpful for Part 4 (educational) providers). Available from the Disability Rights Commission (see page 14)

**The Centre for Accessible Environments**  
[www.cae.org.uk](http://www.cae.org.uk)

## **The National Register of Access Consultants**

For details of access consultants see: [www.nrac.org.uk](http://www.nrac.org.uk)

## **The Joint Mobility Unit (JMU) Access Partnership**

[www.jmuaccess.org.uk](http://www.jmuaccess.org.uk)

For information on legal responsibilities towards disabled students and applicants under the DDA see:

**Code of Practice for Providers of Post-16 Education and Related Services** available from the Disability Rights Commission Helpline, contact:

## **The Disability Rights Commission Helpline**


✉ DRC Helpline

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<b>Website</b>	<a href="http://www.drc-gb.org">www.drc-gb.org</a>



## **Skill: National Bureau for Students with Disabilities**

✉ **Information Service**

Chapter House  
18-20 Crucifix Lane  
London  
SE1 3JW




<b>☎ Telephone</b>	0800 328 5050
<b>Textphone</b>	0800 068 2422
<b>Email</b>	<a href="mailto:info@skill.org.uk">info@skill.org.uk</a>
<b>Website</b>	<a href="http://www.skill.org.uk">www.skill.org.uk</a>

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](http://www.drc-gb.org)**

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