



BRIEFING NOTE

DISABILITY DISCRIMINATION FROM A PROPERTY VIEWPOINT

Background

There are over 8 million disabled people in the United Kingdom. The Disability Discrimination Act 1995 (“the Act”) was the first major piece of legislation introduced by government to support the rights of disabled people.

The Act came into force in stages, over a period of 8 years, the final provisions coming into force on 1st October 2004 when “Service Providers” were required to make other reasonable adjustments in relation to the physical features of their premises to overcome physical barriers to access.

Disability

The definition of “disability” in the Act is “a physical or mental impairment which has a substantial and long term adverse affect on a person’s ability to carry out normal day to day activities”. This wide definition accordingly includes such things as blindness, deafness, learning disabilities and mental illnesses.

Service Provider

Under the Act you are regarded as a ‘Service Provider’ if you are concerned with a provision, in the United Kingdom, of services to the public or to a section of the public. The provision of services include the provisions of any goods or facilities. Once again this is a wide definition that will affect a great

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variety of businesses such as retailers, pubs, hotel and restaurants, hospitals, and cinemas.

What are your obligations?

Where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of a service, the Service Provider has since 1st October 2004, had to take reasonable steps to:-

- 1) remove the feature; or
- 2) alter it so that it no longer has that affect; or
- 3) provide a reasonable means of avoiding it; or
- 4) provide a reasonable alternative method of making the services available

Examples of the above would include altering steps into a ramp, providing an alternative access or installing a lift or providing home visits to disabled customers or clients.

One criticism of the Act is that it did not give any indication as to what is reasonable and as a result it will vary according to the type of service being provided, the resources of the service provider and the affect of the disability on the individual disabled person. In practice, a large multi-national retailer would be expected to make greater adjustments than a small individual sole trader.

Hopefully, Service Providers with premises will have taken steps to address these matters. There is a national register of access consultants, whose details can be found via the website of the Centre for Accessible Environments which is www.cae.org.uk. In many instances the access officer in the Building Control department of the local authority will also assist to try and ascertain the best way of ensuring that a building achieves its potential for accessibility in accordance with the Act and how any improvements can be made as cost effectively as possible.

Two important aspects of the Act are worth noting:--

1. Service Providers cannot charge a disabled person more in order to meet the cost of making it easier for them to use their service. An example would be charging a disabled person for a home visit.
2. There is a common misconception amongst Service Providers that a building can be compliant with the Act. It is not the building, but the services that are provided within it that must be compliant. For example, successive tenants in a building running different businesses and therefore providing different services may result in further adjustments being required to the premises.

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The new Act

The new Disability Discrimination Act 2005 received Royal Assent on 7th April 2005. Once again it is an Act that will come into force in the future on a date or dates yet to be set. The 2005 Act will increase the responsibilities of landlord and managers of let property (both commercial and residential) to accommodate disabled people. The new responsibility will include taking reasonable steps to change existing policies and procedures that make it impossible or unreasonably difficult for a disabled person to take a letting or to enjoy the premises or any of its facilities once let.

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