

Duties & Obligations to the Disabled For Landlords, Service Providers & Employers

Introduction

Does the Disability Discrimination Act 1995 affect your business? The answer is "yes", if you are an employer, a landlord, or are providing services direct to the general public. "Service providers" includes a wide range of businesses such as local government services, hospitals, banks, professional services, shops, bars and restaurants. New regulations also affect bus and rail companies and taxis, requiring them to ensure that transport becomes more accessible to disabled people.

The Act has far-reaching impact and affects businesses in a variety of ways. It imposes duties on employers, landlords and service providers not to discriminate against disabled people by unjustifiably treating them less favourably than others because of that person's disability. This article mainly considers the duties under the Act to make alterations to property.

Although the Act was passed in 1995, it is becoming effective in stages in order to allow those affected time to implement any necessary changes.

The duty not to discriminate against disabled people has existed for many years. A disabled person's remedy is an action for discrimination in the county court.

Discrimination in providing Services

Under section 19 of the Act, it is unlawful to refuse to serve disabled people or to provide a worse service or service on terms worse than those offered to the general public.

Service providers have a duty to consider the requirements of the disabled and to take reasonable steps to change any practices or policies which

make it difficult for disabled people to enjoy the services offered, by providing alternative methods of making the service available, or by providing auxiliary aids. This could involve providing details of services in large print, in Braille, or on tape, to examining existing policies and making sure discrimination does not exist in other ways. For example, insurers can no longer discriminate by loading insurance premiums for those suffering from a disabling illness, and restaurants can no longer refuse access to a blind person accompanied by a guide dog.

Duties to make alterations to premises

It is unlawful to fail to comply with the duties imposed under section 21 of the Act, under which service providers must make reasonable adjustments to property to ensure that buildings are accessible to the disabled. This came into effect in October 2004, and service providers still need to consider how the Act affects them. Under section 6 of the Act (in force December 1996) employers must make reasonable changes to premises if the existing arrangements put disabled people at a substantial disadvantage compared to able-bodied people.

Physical features in buildings may need to be altered in order to give full access to the disabled. This could include installing dropped kerbs, ramps, handrails, lifts or disabled WC facilities, or widening doors or considering the height of door handles.

Service providers might consider employing an access consultant to highlight at an early stage what is likely to be required.

Extent of Duties

What is reasonable? This will depend on the nature of the services provided, and the size and resources of the service provider. A large national supermarket chain is expected to provide comprehensive facilities, to include automatic doors, disabled parking facilities and WCs. A small high street hairdresser with one main door if unable to provide a permanent wheelchair ramp could as an alternative have a temporary ramp built, which is made available upon request.

The responsibility to make alterations rests with the person in occupation. Any necessary consents should be obtained, though landlords will be obliged to grant consent to proposed alterations where it is reasonable to make the adjustments. It seems unlikely that landlords can impose conditions that alterations are reinstated at the end of the lease term.

Shared Facilities

The position in relation to buildings where the tenants enjoy use of shared common facilities is not clear. Common facilities often include a shared access, lifts, WC facilities or a kitchen. If the tenants themselves are service providers, they may require alterations to be carried out to common facilities in order to comply with the Act.

Whether tenants can compel landlords to carry out alterations is not yet clear as it has not been tested through court cases. Nor is it clear whether landlords can recover the costs of such alterations through the service charge, as alterations may amount to 'improvements' and not repairs, and the improvements may not be recoverable under service charge provisions depending on the wording of the lease.