



The Disability Discrimination Act and its effect on Access Control

The Disability Discrimination Act 1995 and the Disability Discrimination Act 1995 (Amendment) Regulations 2003, were fully implemented on 1st October 2004. This was the final stage of a phased implementation of Regulations designed to end the types of discrimination that many disabled people face.

These Regulations, establishing a general framework for the equal treatment in employment and occupation of those with disabilities, impose a 'duty of care' upon employers or service providers to make adjustments to accommodate the disabled. This article gives an overview of the main provisions of the Disabilities Discrimination Act (DDA) and considers the implications of its implementation with respect to access control.

A 'Duty of Care'

It is the responsibility of the employer or service provider occupying a building, whether they own the premises or lease them from another party, to show a 'duty of care'. The 'duty of care' requires that the employer, their employees and any individual who has an influence on hazards in the workplace, to ensure that everything 'reasonably practicable' is done to protect the health and safety of others at the workplace. The term 'reasonably practicable' means that the requirements of the law vary with the degree of risk in a particular activity or environment. The degree of risk must be balanced against the time, trouble and cost of the measures taken to control the risk. The

duty holder can, therefore, choose the most efficient means of managing the risk from the range of feasible possibilities. The duty holder would need to show that they done all that was reasonably practicable and that they have exercised due diligence in the measures taken to mitigate the risk.

Where premises are occupied under lease, the lessor cannot unreasonably withhold consent for the necessary alterations required to comply with the legislation.

Employers and Service Providers

Employers and service providers have responsibilities and duties under the legislation that make it unlawful to discriminate against job applicants, employees or service users on the grounds of disability. The main thrust of the legislation is to enable fairer treatment for disabled people. Disability is defined as 'A physical or mental impairment which has a sustained and long-term adverse effect on a person's ability to carry out normal day-to-day activities'. This may be manifest in one or more of the following ways:

- o mobility
- o manual dexterity
- o physical co-ordination
- o continence
- o ability to lift, carry or otherwise move everyday objects
- o speech, hearing or eyesight
- o memory or ability to concentrate, learn or understand
- o perception of the risk of physical danger

In structural terms, where a physical feature, for example, one arising from the design or construction of a building or the approach or access to premises, makes it impossible or unreasonably difficult for disabled persons to access, building managers will need to make reasonable adjustments to their premises as follows:

- o remove the feature
- o alter the feature so that it no longer makes access impossible or unreasonably difficult
- o provide a reasonable means of avoiding the feature or, in the case of service providers, provide a reasonable alternative method of making the service in question available to disabled persons

Typical examples might include the installation of a lift, the replacement of steps with a ramp and the removal of any access barriers that would inhibit people who either use wheelchairs or crutches.

Managing sensory disability is, in some respects, a more complex issue and needs also to be handled with care. This matter is briefly considered later in the article.

The DDA 1995 makes different provisions for employers and service providers. Employers can no longer claim exemption for small businesses (where an employer had fewer than 20 employees) as the relevant sections of the Act were repealed under the provisions of the DDA 1995 (Amendment) Regulations 2003. An employer can accommodate disabled members of staff's needs in one of a number of ways, for example:

- o building adjustments
- o removal of physical barriers
- o variations in the work routine

The main obligation of making reasonable adjustments, however, falls to Service Providers, (that is those organisations engaged in the provision of goods or services whether paid for, or for free), no matter how large or small they are. The responsibilities of both employers and service providers are considered in more detail below.

Employers' Responsibilities in Relation to Disability

Discrimination

The law will apply, irrespective of the size of the premises or number of employees, with effect from 1st October 2004. However, it is only applied to employers when an individual disabled person applies for a job, is employed or, it becomes apparent an existing employee requires some form of accommodation under the Act.

Recruitment of Disabled Persons for Security Tasks

There is no reason why a disabled person cannot be recruited to carry out some of the security functions required within premises. It all depends upon the circumstances and whether the safety of others will be compromised by the security officer's disability. The wording of BS 7499: 2002, Code of practice for static site guarding and mobile patrols, is a case in point as it requires the Security Officer to be a fit and competent person. There is no elaboration of these terms, which leaves them wide open to interpretation, save for a minimum training requirement.

According to the DDA 1995, a disabled person is not only someone with mobility problems, but may suffer sensory problems, for example deafness or blindness. A person suffering from asthma, epilepsy or diabetes may also be defined as disabled under the Act. It is the duty of the employer to manage the employment needs of all disabled workers in the organisation without

discrimination, but with full consultation. The needs of temporary disabled should also be accommodated.

Therefore, if the security requirement is such that a Security Officer might be expected to pursue a suspect, a person with chronic asthma will not be suitable, although there is no reason why that same person cannot be employed to monitor the surveillance cameras in the control room.

Similarly, if an experienced installation or service engineer suffers from partial blindness, and is no longer suitable for work involving the complex maintenance of an electronic security system, he or she could be invaluable to the company in the resolution of customer telephone queries on security system use.

Service Providers Responsibilities' in Relation to Disability Discrimination

Service Providers have their own set of responsibilities under the legislation. The following extract from the Act summarises them:

If you are a provider of goods, facilities or services you have duties under the Disability Discrimination Act (DDA), which makes it unlawful to discriminate against members of the public on the grounds of disability. These duties came into force from 2 December 1996 on a phased basis, so if you are a service provider, you need to know how the Act affects your business.

Key to the Act for service providers is the concept that it is unlawful to discriminate against disabled people; this discrimination may come in the form of:

- o refusing to provide a service without justification

- o providing a service to a lesser standard without justification
- o providing a service on worse terms without justification
- o failing to make reasonable adjustments to the way services are provided for disabled people

And, from 2004,

- o failing to make reasonable adjustments to the physical features of premises, to overcome physical barriers to access

A service provider can refuse to provide a service to a disabled customer as long as they are able to justify such action and their reasons have nothing to do with the customer's disability. They would need to demonstrate that they would refuse to serve other able bodied customers in the same circumstances.

Access Control Issues

In respect of security issues, the main laws concerning the disabled are;

- o Disability Discrimination Act (DDA) 1995,
- o Disability Discrimination Act 1995 (Amendment Regulations) 2003
- o Building Regulations 2000, together with the Building Regulations 2000 Approved Document M and BS 8300: 2001 *Code of practice for the design of buildings and their approaches to meet the needs of disabled people.*

Access control will be affected under the DDA's definition of physical features. The requirements of the legislation must therefore be considered when carrying out a survey or installation to avoid any unnecessary removal or relocation of

components. The aim should be to allow suitable and adequate design that addresses the DDA whilst at the same time avoiding compromising the security of the building. Access control in this context is not necessarily confined to the simple transition from the entrance hall to the reception area. It could equally apply to all areas of the premises if the building(s) is separated into different security zones.

Different kinds of Access Control Systems will impact upon disabled people in different ways. There are, for example, many types of security card readers, each offering varying levels of security, most of which, however, require the user to swipe or present in some way a card or a tag. Depending upon the individual's disability, this is not always suitable or possible and alternative solutions will be required.



Braille

Consideration should always be given to the manner in which people with visual impairments use access control equipment. To this end, the use of Braille messages is highly desirable and should conform in respect of type and size.

Guide Dogs

Finally it is worth remembering that many visually impaired people use guide dogs and it is worth making provision for the use of guide dogs within the building.

This is such a vast subject that it is impossible to give more than a brief overview of some the main areas of responsibility and factors that should be considered with respect to disability discrimination and rights of access. Further information can be gained from www.disability.gov.uk.

Other considerations

Signs

A simple adjustment that employers could consider is to make use of clear signage. Good signage is important to assist all visitors and staff and vital for safety measures. Signs can provide reassurance as well as information and should be clear, legible, and obvious.

Sans serif fonts and a mixture of upper and lower case are recommended and the use of pictograms and colour are also useful. When using signs it is worth considering having either an audible option or a Braille option for the blind. In fact with all signage and instruction having visual and audible versions is good practice.

Another useful addition to access routes around buildings is to identify routes using different floor and wall textures so that visually impaired people can navigate routes around the building.

Fire Safety

When considering access into buildings, it is important to think about emergency egress. Obviously it is no good ensuring that your building is friendly to disabled users if your security systems hinder or prevent safe and quick exit.

Detailed information on the means of escape for disabled persons can be found in BS 5588: Part 8 Fire and Precautions in the Design, Construction and Use of Buildings. This document considers the concepts of horizontal and vertical escape, proposing that disabled people evacuate themselves horizontally through the building to a fire protected refuge space on or near the fire escape.

Lifts

Access to lifts, the indicators provided by lifts and the size of lifts to enable wheelchairs users to manoeuvre within them should be considered.