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**The Disability  
Discrimination Act 2005:  
Post-legislative  
Assessment**



# The Disability Discrimination Act 2005: Post-legislative Assessment

Presented to Parliament  
by the Secretary of State for Work and Pensions  
by Command of Her Majesty

October 2010

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# MEMORANDUM TO THE WORK AND PENSIONS SELECT COMMITTEE

## The Disability Discrimination Act 2005: Post-legislative Assessment

### 1 Introduction

1.1 This Memorandum provides a preliminary assessment of the Disability Discrimination Act 2005 (2005 Ch. 13) and has been prepared by the Department for Work and Pensions (Office for Disability Issues) for submission to the Work and Pensions Select Committee. It is published as part of the process set out in the document **Post Legislative Scrutiny – The Government’s Approach (Cm 7320)**.

1.2 The Disability Discrimination Act 2005 (“the DDA 2005”) received Royal Assent on 7 April 2005. Its purpose is to extend and improve rights for disabled people by amending the Disability Discrimination Act 1995 (“the DDA 1995”) and other relevant legislation. The Act makes substantial amendments to the DDA 1995, building on amendments already made to that Act by other legislation since 1999.

1.3 The DDA 2005 extends to Great Britain apart from sections 9<sup>1</sup> and 16<sup>2</sup>, which extend only to England and Wales. Although section 3<sup>3</sup> of the DDA 2005 falls partly within the competence of the Scottish Government, it has confirmed that it is content for the Westminster Parliament to legislate for Scotland in this devolved area.

1.4 In general, the provisions in the DDA 1995, as amended by the DDA 2005, have been carried forward in general and disability-specific provisions in the Equality Act 2010 (“the EA 2010”), which received Royal Assent on 8 April 2010. The provisions in the EA 2010 were subject to wide public consultation and subsequent scrutiny by both Houses during its passage through Parliament as the Equality Bill.

1.5 The majority of the provisions in the EA 2010 came into force from 1 October 2010, when the relevant provisions of the DDA 1995, as amended by the DDA 2005, were repealed.

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<sup>1</sup> Recognition of disabled persons’ badges issues outside Great Britain.

<sup>2</sup> Improvements to let dwelling houses.

<sup>3</sup> Duties of public authorities: in broad terms, public bodies must take into account the needs of disabled people as an integral part of their policy-making or decision-making process with a view to eliminating discrimination and harassment and to improve opportunities for, and promote positive attitudes towards, disabled people. In addition, when exercising their functions, public bodies must take account of the need to encourage disabled people to take part in public life.

## 2 Summary of the Objectives of the Disability Discrimination Act 2005

2.1 As originally enacted, the DDA 1995 made it unlawful to discriminate against disabled people in relation to employment, the provision of goods, facilities and services, and the disposal and management of premises. It also contained limited education-related provisions and gave the Secretary of State for Transport powers to make regulations to facilitate the accessibility of taxis, public service vehicles and rail vehicles for disabled people.

2.2 In December 1997 the Government established the Disability Rights Task Force (DRTF) an independent body comprising members of disability organisations, the private and public sectors and trades unions to advise the Government on how best to deliver its manifesto commitment to comprehensive, enforceable civil rights for disabled people against discrimination in society or at work, developed in partnership with all interested parties.

2.3 The DRTF published **From Exclusion to Inclusion**, its final report to Government in December 1999<sup>4</sup>. It recommended a number of major extensions to the DDA 1995's coverage.

2.4 The Government published **Towards Inclusion – Civil Rights for Disabled People**, its final response to the DRTF's Report in March 2001<sup>5</sup>. This response was also a consultation document, which set out the Government's proposals for taking forward those of the DRTF's recommendations with which it agreed.

2.5 The Government took forward the main employment proposals set out in **Towards Inclusion in the Disability Discrimination Act 1995 (Amendment) Regulations 2003** (S.I 2003/1673). These Regulations were made under section 2(2) of the European Communities Act 1972 to implement disability aspects of the EC Employment Directive (2000/78/EC).

2.6 The DDA 2005 was the means by which the Government implemented the remaining proposals that it accepted from the DRTF's report. A draft Bill was published in December 2003 (Cm 6058) for pre-legislative scrutiny. It was considered by a Joint Committee of both Houses, which reported its findings on 27 May 2004<sup>6</sup>.

2.7 The Government published its response to the Joint Committee's report on 15 July 2004 (Cm 6276). The draft Bill was introduced into the House of Lords on 25 November 2004 and received Royal Assent on 7 April 2005. The provisions in the DDA 2005 give effect to many of the Joint Committee's recommendations as well as new provisions

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<sup>4</sup> <http://www.leeds.ac.uk/disability-studies/archiveuk/disability%20rights%20task%20force/From%20exclusion%20to%20inclusion.pdf>

<sup>5</sup> [http://www.education.gov.uk/consultations/downloadableDocs/60\\_3.pdf](http://www.education.gov.uk/consultations/downloadableDocs/60_3.pdf)

<sup>6</sup> Report from the Joint Committee on the Draft Disability Discrimination Bill, HL Paper 82-I, HC 352-I, Session 2003-04 published on 27 May 2004 (Minutes of Evidence – Vol II (HC 352-II / HL 82-II) and Written Evidence – Vol II (HC 352-II / HL 82-II)).

which did not appear in the draft Bill, in particular: sections 6-8<sup>7</sup>; section 9<sup>8</sup>; section 15<sup>9</sup>; and section 16<sup>10</sup>.

2.8 In summary, the main objectives of the DDA 2005 were to:

- bring councillors and members of the Greater London Authority within the scope of Part 2 (work provisions) of the DDA 1995 by inserting new sections 15A to 15C into the DDA 1995, thereby requiring locally-electable bodies not to discriminate against, and to make reasonable adjustments for, their members. (DDA 2005, section 1);
- bring, with some exceptions, such as judicial functions, the functions of public authorities that were not already covered by the DDA 1995 within the scope of Part 3 (goods, services, facilities and premises provisions) of the DDA by inserting new sections 21B to 21E, thereby ensuring that all functions as well as services carried out by public authorities are covered by the 1995 Act. (Section 2);
- place a new duty (known as the Disability Equality Duty) on public authorities to give greater consideration to the interests of disabled people by requiring them when exercising their functions to have due regard to the need to eliminate harassment of, and unlawful discrimination against, disabled people; to promote positive attitudes towards disabled people; to encourage disabled people to participate in public life; and to promote equality of opportunity between disabled people and non-disabled people, by inserting new sections 49A to 49F into the DDA 1995. (Section 3);
- clarify who is the correct defendant in a case of a claim of discrimination being made against a police officer under Part 3 of the DDA 1995, by amending section 64A, thereby assisting in the enforcement of the access to services provisions in relation to the police. (Section 4);
- re-define the exemption on transport services from the provision of services provisions in Part 3 of the DDA 1995 and create a power for that exemption to be lifted for different vehicles at different times by inserting section 21ZA, thereby improving disabled people's access to transport services. (Section 5);
- amend the definition of 'rail vehicle' in the public transport provisions in Part 5 of the DDA 1995 to enable rail vehicle accessibility regulations to be applied to all rail vehicles and enable the regulations to be applied to refurbishment of rail vehicles, by amending sections 46(6) and 47(1) and inserting new sections 46(4A), 67(5A), 67A and 67B, thereby enabling an end date, by which time all rail vehicles must be accessible, to be set. The Act ensured that this date could be no later than 1 January 2020. (Section 6);

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<sup>7</sup> Rail vehicles.

<sup>8</sup> Disabled persons' parking badges.

<sup>9</sup> General qualifications bodies.

<sup>10</sup> Improvements to let dwelling houses.

- introduce provisions requiring rail vehicle accessibility compliance certificates to be obtained for prescribed rail vehicles by inserting new sections 47A to 47C into the DDA 1995, thereby establishing a legal “sign off” mechanism for confirming compliance with the relevant requirements. (Section 7);
- replace the existing criminal offence for use of a rail vehicle which does not conform to rail vehicle accessibility regulations with a civil enforcement system by inserting sections 47D to 47M into the DDA 1995, thereby providing a more flexible regime recognising the operating realities of the industry. (Section 8);
- amend the Chronically Sick and Disabled Persons Act 1970 (“the CSDPA 1970”) to provide for the recognition in England and Wales of disabled persons’ parking badges issued outside Great Britain by inserting new sections 21A to 21C into the CSDPA 1970, thereby improving disabled people’s access to designated parking. (Section 9);
- make a third party (for example a newspaper) as well as the person placing the advertisement, liable if they publish a discriminatory advertisement, by amending section 16B(1) and inserting new sections 16B(2A) to 16B(2C) into the DDA 1995, thereby further dissuading the publication of discriminatory advertisements. (Section 10);
- amend the existing provisions in respect of group insurance arrangements by repealing section 18 of, and inserting new section 25(6A) into, the DDA 1995, thereby clarifying that the provision of group insurance is a service for the purposes of disability discrimination legislation. (Section 11);
- bring private clubs with 25 or more members within the scope of Part 3 of the DDA 1995 by inserting new sections 21F to 21J, thereby extending protection from disability discrimination to a further aspect of society. (Section 12);
- impose a duty on landlords and others who manage rented premises to provide reasonable adjustments by inserting new sections 24A to 24L into the DDA 1995, thereby improving protection for disabled people from discrimination and providing rights to reasonable adjustments in relation to let premises. (Section 13);
- confer a power to modify or end the existing small dwellings exemption in the DDA 1995 by inserting new sections 24B(3), 24B(4), 24H(3) and 24H(4).<sup>11</sup> (Section 14);
- make it unlawful for general qualifications bodies to discriminate against disabled people in the award of general qualifications (as distinct from vocational qualifications which were already covered) by inserting new sections 31AA to 31AF into the DDA 1995, thereby extending protection for disabled people from discrimination in the area of education. (Section 15);

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<sup>11</sup> A commitment made by the government in **Towards Inclusion**, in response to the DRTF’s recommendation that the DDA small dwellings exemption should continue but a reserve power should be taken to lower the limit of ‘six persons’ as necessary.

- provide for a tenant to seek, and for a landlord to provide, where reasonable, consent to make an improvement to a let dwelling house, by inserting new sections 49G to 49I into the DDA 1995, thereby facilitating improved enjoyment of the premises by a disabled occupier. (Section 16);
- extend the DDA 1995 to provide a procedure for questions and replies, not only for claims under the employment provisions in Part 2 of the Act, but also for claims under Part 3 by replacing section 56 with a new section 56, thereby assisting disabled people to consider whether to exercise enforcement of the access to services provisions. (Section 17);
- amend the definition of disability in respect of people with mental illnesses and deem people with HIV infection, multiple sclerosis and cancer to be disabled effectively from the point of diagnosis, thereby making it more straightforward for some disabled people to show that they are disabled for the purposes of the DDA 1995. (Section 18).

### 3 Implementation

3.1 The provisions in the DDA 2005 have been commenced progressively and brought into force by means of five Commencement Orders:

- The Disability Discrimination Act 2005 (Commencement No.1) Order 2005 S.I 2005/1676;
- The Disability Discrimination Act 2005 (Commencement No. 2) Order 2005 S.I 2005/2774;
- The Disability Discrimination Act 2005 (Commencement No. 3) Order 2007 S.I 2007/1555;
- The Disability Discrimination Act 2005 (Commencement No. 1) (Wales) Order 2007 S.I 2007/3285 (W.289); and
- The Disability Discrimination Act 2005 (Commencement No. 4) Order 2010 S.I 2010/341.

3.2 The main provisions of the DDA 2005 were brought into force by the above Commencement Orders as follows:

**Section 1:** 5 December 2005 and 4 December 2006 under S.I 2005/2774;

**Section 2:** 30 June 2005 under S.I 2005/1676 (for the purpose of exercising any power to make regulations, orders or rules of court), otherwise 4 December 2006 under S.I 2005/2774;

**Section 3:** 30 June 2005 under S.I 2005/1676 (for the purpose of exercising any power to make regulations, orders or rules of court), otherwise 5 December 2005 and 4 December 2006 under S.I 2005/2774;

**Section 4:** 5 December 2005 under S.I 2005/2774;

**Section 5:** 30 June 2005 under S.I 2005/1676;



- Section 6:** 5 December 2005 under S.I 2005/2774, and 22 February 2010 under S.I 2010/341 (for the purpose of exercising any power to make regulations or orders), otherwise 6 April 2010 under S.I 2010/341;
- Section 9:** 30 June 2005 (England) under S.I 2005/1676 and 30 March 2008 (Wales) under S.I 2007/3285 (W.289);
- Section 10:** 5 December 2005 under S.I 2005/2774;
- Section 11:** 5 December 2005 under S.I 2005/2774;
- Section 12:** 30 June 2005 under S.I 2005/1767 (for the purpose of exercising any power to make regulations, orders or rules of court), 10 October 2005 under 2005/2774 (for the purpose of exercising any power to make regulations), otherwise 5 December 2005 under S.I 2005/2774;
- Section 13:** 30 June 2005 under S.I 2005/1676 (for the purpose of exercising any power to make regulations, orders or rules of court), otherwise 4 December 2006 under S.I 2005/2774;
- Section 14:** 4 December 2006 under S.I 2005/2774;
- Section 15:** 11 June 2007 under S.I 2007/1555 (for the purpose of exercising any power to make regulations), otherwise 1 September 2007 under S.I 2007/1555;
- Section 16:** 30 June 2005 under S.I 2005/1676 and 4 December 2006 under S.I 2005/2774;
- Section 17:** 30 June 2005 under S.I 2005/1676 (for the purpose of exercising any power to make regulations, orders or rules of court), otherwise 5 December 2005 and 4 December 2006 under S.I 2005/2774;
- Section 18:** 30 June 2005 under S.I 2005/1676 (for the purpose of exercising any power to make regulations, orders or rules of court), otherwise 5 December under S.I 2005/2774.

3.3 For reasons explained below, in section 7.28 Consultation on improving rail vehicle accessibility, the following provisions in the DDA 2005 were not brought into force:

**Section 7**, which relates to rail vehicle accessibility compliance certificates;

**Section 8**, which replaces the existing criminal offence with a civil enforcement system for those not conforming with rail vehicle accessibility regulations; and

**Schedule 2**, repeals of or in the Disability Discrimination Act, section 49.

## **4 Secondary Legislation etc**

4.1 The DDA 2005 has been amended by:

- The Equality Act 2006: repealed section 16(2) and 16(3) which related to conciliation of disputes arising from provisions relating to improvements to dwelling houses;
- The Rail Vehicle Accessibility (Interoperable Rail System) Regulations 2008 S.I 2008/1746: amended section 6(2) which relates to the definition of a rail vehicle; and
- The Mental Health Act 2007 (Consequential Amendments) Order 2008 S.I 2008/2828: repealed paragraph 34(4) to Schedule 1 which related to the definition of "mental impairment".

4.2 The following Regulations and Orders have been made under the DDA 2005:

### **S.S.I 2005/565: The Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005**

- These Regulations impose duties on specified public authorities with the aim of assisting them to perform better their duties to promote equality of opportunity for disabled persons under section 49A(1) of the DDA 1995, as inserted by the DDA 2005, section 3.

### **S.I 2005/2703: Disability Discrimination (Questions and Replies) Order 2005**

- This Order amends section 56 of the DDA 1995 by substituting section 17 of the DDA 2005 to provide that the questions and replies procedure for Part 2 cases also extends to cases brought under Part 3 of the DDA 1995.

### **S.I 2005/2901: The Disability Discrimination (Service Providers and Public Authorities Carrying Out Functions) Regulations 2005**

- In addition to partially consolidating provisions in relation to providers of services, these Regulations make provision in relation to public authorities, which arises out of new duties on public authorities carrying out their functions, introduced into the DDA 1995 by the DDA 2005, section 2.

### **S.I 2005/2966: The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005**

- These Regulations impose duties on specified public authorities, generally to ensure their better performance in relation to the need to have due regard to the need to eliminate disability discrimination, etc under sections 49A(1)(a) to (f) of the DDA 1995, as inserted by the DDA 2005, section 3.

### **S.I 2005/3190: The Disability Discrimination (Transport Vehicles) Regulations 2005**

- These Regulations impose either in total, or in part, duties under Part 3 of the DDA 1995 on the providers of services using trains (including light rail, underground and trams), buses, coaches, taxis and private hire vehicles – as

well as vehicle hire services, breakdown services and vehicles used in leisure and tourism services. They define what “physical features” are to be considered as reasonable adjustments for hire vehicle providers. They also provide for the publication of Guidance.

#### **S.I 2005/3258: The Disability Discrimination (Private Clubs etc.) Regulations 2005**

- These Regulations modify the duties imposed by the DDA 1995 on private clubs and other associations, by DDA 2005, section 12. They impose new duties on associations with 25 or more members in relation to their disabled members, associates and guests and prospective disabled members and guests.

#### **S.I 2006/887: The Disability Discrimination (Premises) Regulations 2006**

- These Regulations assist landlords, and others who manage rented premises, to comply better with the duty imposed on them to make reasonable adjustments (other than to physical features) for disabled tenants or disabled occupants of the premises, as inserted into the DDA 1995 by the DDA 2005, section 13.

#### **S.S.I 2007/195: Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) (Amendment) Regulations 2007**

- These Regulations amend the Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 (S.S.I 2005/565) by adding to the list of specified authorities upon which duties are imposed by section 49A(1) of the DDA 1995, as inserted by the DDA 2005, section 3.

#### **S.I 2007/618: The Disability Discrimination (Public Authorities) (Statutory Duties) (Amendment) Regulations 2007**

- These Regulations amend the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (S.I 2005/2966) by adding to the list of specified authorities upon which duties are imposed by section 49A(1) of the DDA 1995, as inserted by the DDA 2005, section 3.

#### **S.I 2007/1764: The Disability Discrimination (General Qualifications Bodies) (Relevant Qualifications, Reasonable Steps and Physical Features) Regulations 2007**

- These Regulations prescribe the qualifications in relation to which it is unlawful for general qualifications bodies to discriminate against a disabled person under the duties inserted into the DDA 1995 by the DDA 2005, section 15.

#### **S.I 2008/641: The Disability Discrimination (Public Authorities) (Statutory Duties) (Amendment) Regulations 2008**

- These Regulations further amend the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 (S.I 2005/2966) by adding to the list of specified authorities upon which duties are imposed by section 49A(1) of the DDA 1995, as inserted by the DDA 2005, section 3.

## **S.I 2008/2159: The Disability Discrimination (General Qualifications Bodies) (Relevant Qualifications, Reasonable Steps and Physical Features) (Amendment) Regulations 2008**

- These Regulations amend the Disability Discrimination (General Qualifications Bodies) (Relevant Qualifications, Reasonable Steps and Physical Features) Regulations 2007 (S.I 2007/1764), to specify that it is always a reasonable step for a general qualifications body to assess a disabled candidate in relation to the components of an examination taken by that candidate, as if those components comprised the entire examination.

## **S.I 2008/2975: The Rail Vehicle Accessibility Exemption Orders (Parliamentary Procedures) Regulations 2008**

- These Regulations apply in relation to applications for an exemption order from rail vehicle accessibility requirements under section 47(1) of the DDA 1995, as substituted by section 6(3) of the DDA 2005. They set out the basis on which the Secretary of State will decide which parliamentary procedure is to be followed when making such an exemption order.

## **5 Statutory Guidance and Codes of Practice**

### **5.1 Disability Discrimination Act: Guidance on matters to be taken into account in determining questions relating to the definition of disability<sup>12</sup>**

Produced and published by the Department for Work and Pensions in 2006, this revised guidance reflects the amendments made by section 18 of the DDA 2005 to the definition of disability that applies for the purposes of the DDA 1995. This section removed the need for a mental illness to be 'clinically well-recognised' before it could amount to a mental impairment for the purposes of the DDA 1995. In addition, section 18 provided that people with HIV infection, multiple sclerosis or cancer are deemed to be disabled for the purposes of the DDA 1995 effectively from the point of diagnosis.

### **5.2 Disability Discrimination Act 1995 Code of Practice – Rights of Access: services to the public, public authority functions, private clubs and premises<sup>13</sup>**

Produced and published by the Disability Rights Commission (DRC) in 2006, before it was replaced by the Equality and Human Rights Commission (EHRC), this revised Code of Practice reflects new duties introduced into Part 3 of the DDA 1995 by the DDA 2005. Those affected by the new duties are landlords and those managing premises, organisations that carry out public functions and larger private clubs.

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<sup>12</sup> [http://www.equalityhumanrights.com/uploaded\\_files/guidance\\_on\\_matters\\_to\\_be\\_taken\\_into\\_account\\_in\\_determining\\_questions\\_relating\\_to\\_the\\_definition\\_of\\_disability.pdf](http://www.equalityhumanrights.com/uploaded_files/guidance_on_matters_to_be_taken_into_account_in_determining_questions_relating_to_the_definition_of_disability.pdf)

<sup>13</sup> [http://www.equalityhumanrights.com/uploaded\\_files/code\\_of\\_practice\\_rights\\_of\\_access.pdf](http://www.equalityhumanrights.com/uploaded_files/code_of_practice_rights_of_access.pdf)

### **5.3 Provision and use of transport vehicles: Statutory Code of Practice, Supplement to Part 3 Code of Practice<sup>14</sup>**

Produced and published by the DRC in 2006, this Code of Practice reflects new duties introduced into Part 3 of the DDA 1995, by the DDA 2005, in relation to the use of transport vehicles. It is supplementary to, and should be read in conjunction with, **Code of Practice – Rights of Access: services to the public, public authority functions, private clubs and premises.**

### **5.4 Revised Code of Practice: Trade Organisations, Qualifications Bodies, General Qualifications Bodies<sup>15</sup>**

Produced and published by the EHRC in 2008, this revised guidance provides practical guidance on how duty holders can avoid committing acts which are unlawful under, and other matters relating to the operation of, Part 2 of the DDA 1995, as amended by the DDA 2005.

### **5.5 The Duty to Promote Disability Equality: Statutory Code of Practice: England and Wales<sup>16</sup>**

Produced and published by the DRC in 2005, this Code of Practice provides practical guidance on fulfilling the new duty imposed by the DDA 1995 as amended by the DDA 2005, section 3, on all public authorities to promote disability equality when carrying out their functions.

### **5.6 The Duty to Promote Disability Equality: Statutory Code of Practice: Scotland<sup>17</sup>**

Produced and published by the DRC in 2006, this Code of Practice provides practical guidance on fulfilling the Disability Equality Duty as it applies in Scotland.

## **6 Legal Issues**

6.1 No legal issues of any importance have arisen in respect of the development or content of the DDA 2005, or the impact of the Act's provisions on those in the DDA 1995. Other than in respect of applications to Employment Tribunals, there is no central record maintained of legal action taken by individuals to enforce their rights under provisions in the DDA 1995, as amended by the DDA 2005. However, there have been some legal cases which have aided interpretation of the provisions introduced by the DDA 2005 and demonstrated the effectiveness of the provisions.

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<sup>14</sup> [http://www.equalityhumanrights.com/uploaded\\_files/code\\_of\\_practice\\_provision\\_and\\_use\\_of\\_transport\\_vehicles\\_dda.pdf/](http://www.equalityhumanrights.com/uploaded_files/code_of_practice_provision_and_use_of_transport_vehicles_dda.pdf/)

<sup>15</sup> [http://www.equalityhumanrights.com/uploaded\\_files/dda\\_revisedcop\\_tradeorgs\\_qualificationbodies.pdf](http://www.equalityhumanrights.com/uploaded_files/dda_revisedcop_tradeorgs_qualificationbodies.pdf)

<sup>16</sup> [http://www.equalityhumanrights.com/uploaded\\_files/the\\_duty\\_to\\_promote\\_disability\\_equality\\_statutory\\_code\\_of\\_practice\\_england\\_and\\_wales.pdf](http://www.equalityhumanrights.com/uploaded_files/the_duty_to_promote_disability_equality_statutory_code_of_practice_england_and_wales.pdf)

<sup>17</sup> [http://www.equalityhumanrights.com/uploaded\\_files/the\\_duty\\_to\\_promote\\_disability\\_equality\\_statutory\\_code\\_of\\_practice\\_scotland.pdf](http://www.equalityhumanrights.com/uploaded_files/the_duty_to_promote_disability_equality_statutory_code_of_practice_scotland.pdf)

## *Disability Equality Duty (DED)*

### **6.2 R (on the application of Eisai Ltd) (Alzheimer's Society, interested party) v National Institute for Clinical Excellence [2007] EWHC 1941 (Admin)**

6.3 The Alzheimer's Society and the claimant drug company challenged a decision of the National Institute for Health and Clinical Excellence (NICE) Appeal Panel about prescribing drugs to people with Alzheimer's disease on a number of grounds including a breach of the DED. The crux of that challenge was that NICE's Guidance to assess the severity of Alzheimer's disease did not allow adequate consideration of the impact of a decision not to recommend the use of the drug on disabled people. This argument was upheld by the High Court as (amongst other things) a failure by NICE to fulfil its duties to disabled people under the DED by having regard to the need to promote equality of opportunity and eliminate discrimination against disabled people. On that basis, NICE was ordered to amend its Guidance.

### **6.4 R (on the application of (1) Priti Hansraj Chavda; (2) Margaret Fitzpatrick and (3) Milton George Maos) v London Borough of Harrow [2007] EWHC 3064 (Admin)**

6.5 The case was taken against Harrow Council in December 2007 and concerned a proposed reduction by the Council, on cost cutting grounds, in the criteria for eligibility for social care support (the potential levels of which are described in government guidance) from "critical" to "substantial" to "critical" alone, potentially affecting social service users. The council consulted widely on its proposals, and also prepared an "equality impact assessment" as part of its policy development. This had concluded there was a risk of impact, but it did not refer specifically to the Disability Equality Duty (DED).

6.6 The finding of the High Court was that the defendant had not complied with the DED in that that duty involved a proactive approach to avoid disadvantage to disabled people which had not occurred in this case as the decision-makers had not had their attention sufficiently drawn to the seriousness and the extent of the duty. The Council could not properly weigh matters in the balance without being aware what its duties were. It was not enough to accept that the Council had a good record on disability issues and that somehow the message had got across. It is important not only to respect rights but to do so visibly and record the fact.

### **6.7 R (on the application of Brown) v Secretary of State for DWP and Royal Mail Group (EHRC intervening) [2008] EWHC 3158 (Admin)**

6.8 In this case, a disabled woman whose local post office had closed as a result of the Network Change Programme that Post Office Limited (a subsidiary company of Royal Mail Group Ltd) had been implementing took a claim arguing that decisions around the closure had been taken without due regard to the effect on disabled people, contrary to the DED.

6.9 In brief, the claimant's case was that decisions made by the Secretary of State (SoS) for Business, Enterprise and Regulatory Reform<sup>18</sup> (BERR), in connection with the post office closure programme were unlawful as they did not have due regard to the need to promote disability equality (i.e. the general DED laid down in s49A of the DDA 1995). In addition, it was alleged that the decision by the SoS for Work and Pensions (DWP) to remove Royal Mail Group from the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 was unlawful and irrational.

6.10 The final decision, found in favour of the SoSs for BERR and DWP, contained six general principles, tentatively put forward, as to how, in practice, a public authority can fulfil its duty to have "due regard", as required by the equality duties:

- firstly, those in the public authority who have to take decisions that do or might affect disabled people must be made aware of their duty to have "due regard" to the identified goals;
- secondly, the "due regard" duty must be fulfilled before and at the time that a particular policy that will or might affect disabled people is being considered by the public authority in question. It involves a conscious approach and state of mind;
- thirdly, the duty must be exercised in substance, with rigour and with an open mind. The duty has to be integrated within the discharge of the public functions of the authority. It is not a question of "ticking boxes";
- fourthly, the duty imposed on public authorities that are subject to the section 49(1) duty is a non-delegable duty. The duty will always remain on the public authority charged with it;
- fifthly, the duty is a continuing one;
- sixthly, it is good practice for those exercising public functions in public authorities to keep an adequate record showing that they had actually considered their disability equality duties and pondered relevant questions.

6.11 Of significance is the steer that Judges 'do not accept that either section 49A(1) in general, or section 49A(1)(d) in particular, imposes a statutory duty on public authorities requiring them to carry out a formal Disability Equality Impact Assessment (DEIA) when carrying out their functions. At the most it imposes a duty on a public authority to consider undertaking a DEIA, along with other means of gathering information, and to consider whether it is appropriate to have one in relation to the function or policy at issue, when it will or might have an impact on disabled persons and disability'.

6.12 The decisions also clarified that the Code of Practice, the Disability Equality Schemes and any related toolkits do not impose additional duties on public authorities.

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<sup>18</sup> Now Business, Innovation and Skills.

## *Public Authorities Carrying Out Functions*

### **6.13 Barrett v LB Southwark [2008] All ER (D) 57**

6.14 Mrs B is a single woman in low-paid employment with three children. She also has a severe hearing disability. Mrs B became homeless after she fell behind with her mortgage repayments. Southwark Council refused to help her under homelessness legislation, saying that she was intentionally homeless. Mrs B was given 21 days to appeal and was told she needed to consult a solicitor but she was unable to obtain advice from a solicitor. A number of advisers would not see Mrs B when she revealed she was deaf and they would need to work via an interpreter. Others charged her a fixed fee for an interview and gave no advice or poor advice. She was well beyond the 21-day appeal period. She tried to bring a late appeal but after a day hearing the County Court refused to consider it. She appealed to the High Court.

6.15 On 22 August 2008, His Honour Judge Madge, in giving judgment in a homelessness appeal, found that Southwark Council had breached disability discrimination laws in the way they dealt with an application from a homeless woman with a severe hearing impairment. Mrs B, who had won permission from the High Court to challenge the Council's rejection of her homelessness application, had complained that Southwark Council had not considered her application in accordance with rules under the DDA that require public authorities and service providers to make reasonable adjustments to take account of disabilities. Mrs B had complained that whilst Southwark Council normally conducts detailed interviews with homeless applicants when they first apply for help, Southwark Council failed to arrange a sign interpreter, failed to conduct a detailed interview in the normal way, and failed to provide her with the same opportunity as a non-disabled person to explain why she needed help. Instead, she was told she had to provide information by email. As a result Mrs B was unable to explain her case properly. The Court agreed, and decided that Southwark Council's decision had been unlawful.

## *Transport*

6.16 It is an offence for taxi drivers and Private Hire Vehicle drivers or operators to refuse to carry assistance dogs. The Department for Transport is aware that there have been several cases under the DDA 1995, as amended, where drivers have been fined in local magistrates' courts under this offence.

## **7 Other reviews**

7.1 While the main provisions in the DDA 2005 are listed in paragraph 2.8 above, the most significant of these provisions are those introduced by section 3 (Disability Equality Duty), section 1 (councillors), section 2 (public authority functions), section 12 (larger private clubs), sections 13 and 16 (premises), section 5 (bringing transport services within the scope of Part 3 of the DDA) and section 15 (general qualifications bodies). The remaining provisions are largely technical issues.



## *Disability Equality Duty*

7.2 To date there have been a number of reviews/research reports that have examined:

- the implementation of the Disability Equality Duty;
- public bodies' compliance with the requirement to publish Disability Equality Schemes; and
- practitioners' views on the most effective specific equality duties etc.

The following sections describe these reports in more detail.

### **7.3 An in-depth examination of the implementation of the Disability Equality Duty in England**

7.4 This research examined the experiences of public authorities in England<sup>19</sup> in implementing the Disability Equality Duty (DED)<sup>20</sup>. It also examined ways in which disabled people had been involved in producing Disability Equality Schemes (DES) and how organisations endeavoured to promote disability equality in their policies and practices.

7.5 Key findings of the research were:

- indications of a positive change in perceptions of disabled people (disabled employees, service users and customers) and disability issues, at least in most of the organisations researched;
- disability was now firmly embedded in the equality agenda, representing a significant shift over the past decade;
- considerable variation across, and within, different sectors regarding interpretation and implementation of the DED;
- the focus, overall, at this stage was primarily in developing a DES rather than outcomes and few formal monitoring mechanisms were identified;
- the Equality and Human Rights Commission (EHRC) had not paid enough attention to arrangements for future regulation and assessment of the DED;
- there were concerns about a lack of accountability in relation to how far, and in what ways, authorities involved disabled people;
- many organisations were concerned about the proposed introduction of a 'Single Equality Bill', especially the risk of disability issues being seen as less important than other equality areas.

7.6 The research report ends with a number of recommendations based on the findings. For example, that the EHRC had a key role to play and should continue the good work started by the DRC in supporting organisations and monitoring the implementation of

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19 While this specific piece of research covered only England, the Disability Equality Duty (section 3 of the DDA 2005) also applies to Wales. In addition, section 3 falls partly within the competence of the Scottish Government but it has confirmed it is content for the Westminster Parliament to legislate for Scotland in this devolved area.

20 <http://www.odj.gov.uk/docs/res/ded/ded-implementation-report-08.pdf>

the DED. In addition, a framework should be created whereby progress of the DED can be monitored, preferably aligned to existing performance frameworks.

### **7.7 Public Bodies' Response to the Disability Equality Duty: An Audit of Compliance with the Requirement to Publish a Disability Equality Scheme**

7.8 This research was an audit of how public bodies are meeting their duties under the DED<sup>21</sup>.

7.9 The project was aimed at providing ODI with an early assessment of the public sector's response to the DED and the level of compliance in publishing, and involving disabled people in the process of creating, a DES.

7.10 Key findings of the research were:<sup>22</sup>

- the majority of public authorities covered by the audit had published a DES;
- a small number of sectors with a higher than average proportion of public authorities had yet to draw up their scheme;
- at least 54 per cent of the public authorities covered in the audit had a DES containing evidence of involvement by disabled people in its production.

### **7.11 Making practice happen: Practitioners' views on the most effective specific equality duties**

7.12 The EHRC conducted research on specific duties in January 2009<sup>23</sup>. Practitioners from a range of sectors were interviewed, which confirmed that the specific duties were a driver for change within their organisations. While some thought the specific duties could be perceived as a bureaucratic means towards compliance, the vast majority were clear that implementing the specific duty had been fundamental in improving services to local people.

7.13 The key findings of the research were that the specific duty to involve disabled people had ensured a step change in policy and service development. Also, that the SoS's specific duty to report on disability across each sector had created a significant shift in central government's understanding of and response to disability equality.

### **7.14 Capturing the value of the Disability Equality Duty: Early impact, benefits and lessons learnt across five central government departments – Report for the Disability Rights Commission (DRC)**

7.15 Research was conducted with officials to capture the early indicators of the value of the DED in five central Government Departments, in particular the benefits brought about by departments developing their DESs<sup>24</sup>.

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<sup>21</sup> [http://www.odi.gov.uk/docs/res/compliance-report/ded\\_report\\_2007combined.pdf](http://www.odi.gov.uk/docs/res/compliance-report/ded_report_2007combined.pdf)

<sup>22</sup> The findings of this report represent the picture of compliance at the end of January 2007.

<sup>23</sup> [http://www.equalityhumanrights.com/uploaded\\_files/PSD/research\\_doc\\_makingpracticehappen.doc](http://www.equalityhumanrights.com/uploaded_files/PSD/research_doc_makingpracticehappen.doc)

<sup>24</sup> [http://www.equalityhumanrights.com/uploaded\\_files/PSD/research\\_doccapturingthevalueded.doc](http://www.equalityhumanrights.com/uploaded_files/PSD/research_doccapturingthevalueded.doc)

7.16 The research found that disability equality had risen up the agenda of the departments. The fact that the DED is a legislative requirement had proved a useful tool in raising awareness of disability equality. The duty had also enabled the departments to adopt a more joined up approach to disability equality and disability issues were being considered more fully in relation to a wider range of departmental policies, strategies and services.

7.17 The DED also provided a stronger focus for action on disability equality with work around the involvement of disabled people leading to actions being prioritised in DES action plans. This helped to improve structures and processes for promoting disability equality.

### **7.18 Lights, Camera, Action: Promoting Disability Equality in the Public Sector**

7.19 Led by RADAR, a national network of disability organisations and disabled people, this programme was designed to support public authorities in promoting and delivering disability equality<sup>25</sup>. The guidance includes a handful of the hundreds of success stories where the public sector had used the DED to involve disabled people and had improved outcomes and results. Many had utilised the framework of either a DES or a more general Equality Scheme. The key to success for many had been a combination of leadership, involving disabled people and a focus on outcomes.

### *Members of Locally-electable Bodies*

7.20 **The Organisations' responses to the Disability Discrimination Act: 2009** study explored the extension of anti-discrimination provisions to cover locally-electable authorities with regard to discrimination against disabled elected members.

7.21 The survey found that overall, just over half of locally-electable authorities knew of the provisions for disabled elected members in the DDA (51 per cent). The qualitative research found a fairly high awareness of disability legislation, but few respondents were aware that there were specific duties for disabled elected members. In some cases, it was thought that disabled elected members were already covered prior to the 2005 changes, by the DDA provisions for disabled employees.

7.22 The survey revealed that many of the locally-electable authorities had made adjustments. However, the qualitative research revealed that few adjustments had been made specifically for disabled elected members, as few had been required. Physical adaptations had often been made to benefit employees and service users which could also benefit disabled elected members, and occasionally the reverse was true.

7.23 The reasons for making the adjustments were that they had been requested by disabled elected members, although the DDA (usually the employment and service provision duties) was sometimes also mentioned as a motivating factor.

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<sup>25</sup> <http://www.radar.org.uk/radarwebsite/RadarFiles/Documents/lightscameraaction.pdf>

## *Functions of public bodies*

7.24 **The Organisations' responses to the DDA: 2009** study found that understanding of public functions and the ways in which they were distinct from services provided by public bodies was very low in both the quantitative survey and the qualitative interviews. Public bodies tended to treat all of their public-facing activities as services, regardless of whether these would be classed as services or public functions in law.

7.25 Knowledge of the DDA was high. Respondents were aware of the employment and goods and service provision duties but few knew of, and understood, the DDA public functions duties. Public bodies had made a wide range of adjustments for their customers, clients and service users.

7.26 Over 200 local authorities returned a self completion survey about public functions and the DDA. 90 per cent of local authorities that responded (219) were already aware of the DDA duties relating to public functions, with nine per cent not aware but assuming that discrimination against disabled people was already covered in the existing legislation.

7.27 Local authorities were presented with a list of adjustments and asked which they had already made or were planning to make. 'Physical adjustments' and developing an 'Equal Opportunities/disability policy' were the two most likely changes to have already been made. However, in the case of an 'Equal Opportunities/disability policy', 40 per cent had only done this or were planning to do so because of the new duties. By contrast, three-quarters of local authorities said that they would have made the following adjustments anyway: 'Making changes to improve communication' and 'The way services are provided'.

## *Transport*

### **7.28 Disability Discrimination Act 1995: Consultation on improving rail vehicle accessibility**

7.29 The introduction of new European accessibility standards for heavy rail vehicles (trains) in 2008, based largely on our existing domestic standards, removed them from the scope of the DDA 1995 rail vehicle accessibility regime<sup>26</sup>. This prompted a reassessment of the policy on the introduction of the compliance certification and civil enforcement measures provided for by ss47A to 47M of the DDA 1995, as inserted by the DDA 2005. These provisions were included in the DDA 2005 largely at the request of train operators and reassessment favoured non-commencement due to the significantly different operating environment of those light rail vehicles (metros, trams and underground) which remained within scope.

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<sup>26</sup> To prevent the application of dual accessibility standards, both domestic and European, to the same train, the Rail Vehicle Accessibility (Interoperable Rail System) Regulations 2008 (S.I. 2008/1746) amended the DDA 1995 to remove those trains subject to the new European standards from scope. Following consultation, these Regulations were also subject to the draft affirmative resolution procedure and were debated by committees of both Houses of Parliament.

7.30 The Department for Transport (DfT) consulted during 2009<sup>27</sup> on its preferred options of non-commencement of the compliance certification and civil enforcement provisions of the DDA 2005 and the adoption instead of Health and Safety at Work etc. Act 1974 enforcement powers with enforcement by the Office of Rail Regulation for consistency with provisions already in place for trains.

7.31 Responses indicated that the preferred options were strongly supported by stakeholders. DfT therefore proceeded with the implementation of a package of secondary legislation under the DDA 1995 on this basis: the enforcement provisions were contained in the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I 2010/432), which came into force on 6 April 2010.

### **7.32 Assessment of Accessibility Standards for Disabled People in Land Based Transport Vehicles: Literature Review (2008)**

7.33 In 2008, DfT commissioned Human Engineering Ltd and the Guide Dogs for the Blind Association to undertake an assessment of accessibility standards in land based transport vehicles in response to the requirements of the DDA 1995 and as amended by the DDA 2005.

7.34 The review attempted to consider the access needs of the widest possible range of disabled users throughout the complete journey cycle, although it recognised that users with different disabilities may have different access needs. For example, a visually-impaired person will not necessarily face the same barriers as a person with a learning disability or motor weakness.

7.35 The review focused on land based public transport systems. The review highlights the contribution a public transport system can make towards encouraging disability inclusion, and at the same time recognises that a public transport system can exacerbate exclusion for disabled people where access difficulties are concerned<sup>28</sup>.

7.36 The review found that, even without legislation, pedestrian environments and transport infrastructure often exhibited good levels of accessibility, surpassing mandatory requirements in some cases. The review also showed that disabled users were generally satisfied with the levels of assistance provided by transport staff across all modes.

7.37 The accessibility gap tended to lie in the softer 'way finding' tools, where there was often a lack of standardisation in the provision of information between services. Examples cited included the inability to tailor a service to an individual's particular need and the inability to obtain disability-specific information. The lack of audio-visual information within road vehicles was also highlighted as problematic, along with the inaccessible nature of external route information.

7.38 The review highlighted that a holistic approach to transport design was needed, along with inclusive design at the core of transport-related strategy. A fragmented

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<sup>27</sup> <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/closed/rvarconsul/rvarconsultationpaper.doc>

<sup>28</sup> <http://www.dft.gov.uk/transportforyou/access/landaccessibilitystandards/>

approach to journey planning, poorly designed and maintained pedestrian links, mismatches between vehicles and infrastructure and local authorities and transport providers all contribute to sustaining barriers preventing the mobility of disabled people.

7.39 The review concluded that regulations with regard to the practicalities of a disabled person using transport helps to facilitate a shift towards standardised services in transport.

### *General qualifications bodies provisions*

7.40 No formal evaluation of the provisions relating to the practical operation of the general qualifications provisions in the DDA 2005 has been established as it became clear at an early stage that there was not a consensus of opinion on exactly what the provisions in the DDA 2005 required.

7.41 To summarise, general qualifications bodies were required not to discriminate against disabled people. However, the duty to make reasonable adjustments did not apply in relation to "competence standards". This term is defined by s31AB(9) of the DDA 1995, which was inserted therein by s15 of the DDA 2005:

*'... "competence standard" means an academic, medical or other standard applied by or on behalf of a general qualifications body for the purpose of determining whether or not a person has a particular level of competence or ability.'*

However, there was no widespread agreement as to what amounted to a competence standard in the context of general qualifications, and efforts to make things clearer by way of regulations were not entirely successful.

7.42 The equivalent provisions in the Equality Act 2010 are drafted in a different way, so that the regulator (Ofqual) decides what matters in relation to general qualifications are not subject to the duty to make reasonable adjustments.

### *Private Clubs*

7.43 **The Organisations' responses to the DDA: 2009 study** examined the impact of Part 3 of the Act on private clubs through in-depth interviews.

7.44 There was a general appreciation that legislation existed (or probably existed) to protect the rights of disabled people, but few clubs knew any of the detail of this. Most clubs thought that the specific duties would not influence what they were willing to do.

7.45 Many private clubs had made service-related adjustments for their members, including physical adaptations to premises when there was a need or request for these, despite knowing little about the legislation.

7.46 Private clubs usually saw the adjustments they had made as being common sense and worthwhile, in order to serve their members. The legislation appeared to have had little impact on their activities in this area although there had been a few cases where the DDA had been at least part of the impetus for taking action.

## *Adjustments to rented premises*

7.47 At the time of writing some questions have been placed on the Private Landlords' Survey about private sector landlords' experiences and willingness to make adjustments but the results will not be available for analysis until later in 2010. This data will help us assess the number and type of requests for adjustments private landlords have been receiving.

**7.48 The previous sections describe research that has explored the impact of the Act on the government departments and organisations that have been directly impacted by it. The sections that follow explore the impact of the Act on disabled people where information is available.**

7.49 There is currently a lack of data relating to disabled people's experiences of discrimination and the direct role the Act has played in their lives. The Life Opportunities Survey (LOS) is a major new national survey of disability in Britain (reporting fully in autumn 2011). The survey will provide information on barriers to accessing a range of goods and services. These include libraries, hospitals, leisure centres, restaurants and shops, as well as public services such as the health service, the justice services and the benefits service. With respect to employment, the survey will provide information on the reasons that limit the amount of paid work an individual can do (including attitudinal and physical barriers) and those adjustments that have helped an individual at work (such as modified hours or changes to work equipment). Although LOS will not be able to be used to determine the direct impact of the DDA it will provide more detailed information about disabled people's experiences.

7.50 There is no data available on disabled member's experiences of the extension of Part 2 of the DDA to cover locally-electable members.

7.51 The ONS Opinions Survey is a cross-sectional survey tracking the views of individuals on a range of topics.

7.52 Between 2009 and 2005 there has been a statistically significant decrease in the percentage of disabled people reporting difficulties accessing goods and services. In 2005, 37 per cent of disabled people reported difficulties accessing goods and services compared with 32 per cent in 2009 (ONS Opinions Survey).

7.53 There has been no statistically significant change in the proportion of disabled people reporting difficulties accessing public services – in 2005, 10 per cent of disabled people reported difficulties in accessing public services compared with nine per cent in 2009.

7.54 Similarly there has not been a statistically significant change in the proportion of disabled people reporting difficulties in accessing private clubs – in 2005, seven per cent of disabled people reported difficulties in accessing private clubs compared with six per cent of disabled people in 2009.

7.55 The proportion of disabled people requesting adjustments to rented property has not changed between 2005 and 2009 (where five per cent of disabled people reported doing so), the most common request being alterations to 'kitchen/bathroom/toilet'.

## 8 Preliminary assessment of the Act

8.1 It is important to note that the provisions of the DDA 2005 primarily amended and supplemented provisions within the DDA 1995. Therefore the overall impact of the DDA 2005 has to be assessed in the context of the general framework of disability rights provided by the DDA 1995. In a number of respects, the DDA 2005 built upon existing provisions in the DDA 1995, and this has had an impact upon the understanding and implementation of the provisions in the later Act. For example, the research evidence shows that some of those such as private clubs and public authorities with duties under the DDA 2005 to make reasonable adjustments in respect of their services, already acted as if they were under a duty to make adjustments for club members or recipients of their functions.

8.2 Besides formal assessments of key sections of the DDA 2005, the provisions in the disability discrimination legislation provisions were subject to review as part of the previous Government's development of the Equality Bill (now the Equality Act 2010). The Government took the opportunity to consider whether, and how, disability discrimination might be further strengthened and harmonised, both within the development of the disability-specific provisions and in the context of the provisions that apply across a range of protected characteristics including disability. There was full public consultation on the proposals for the Bill, and the then Government adopted a number of disability-related measures in response to Parliamentary scrutiny of the Bill.

8.3 As a consequence, the EA 2010, most of which the present Government brought into force from 1 October 2010, includes a range of measures which improve disability discrimination legislation beyond the protection provided by the DDA 1995 as amended by the DDA 2005. For example, the EA 2010 strengthens and simplifies disability discrimination provisions, including where relevant those introduced by the DDA 2005, introducing:

- protection from indirect disability discrimination;
- protection from discrimination arising from disability;
- harmonised definitions of discrimination as they apply to the employment field and areas beyond, including the delivery of public functions;
- a harmonised approach to provisions that allow certain discriminatory actions to be justified, by adopting the single test of whether the treatment was a proportionate means of achieving a legitimate aim ("objective justification"); and
- a new right for disabled people to request, and have made, reasonable disability-related alterations to the common parts of leasehold and commonhold residential premises.

8.4 In addition, it was acknowledged that it was not possible to get the general qualifications provisions in the DDA 2005 to operate effectively, because it proved impossible to get an agreed workable definition of "competence standard" in this



context. As a consequence, the EA 2010 includes provisions that take a different approach which includes the appointment of appropriate regulators for general qualifications bodies. It is expected that the new provisions in the EA 2010 will be more effective. These provisions will be evaluated in due course.

8.5 During the passage through Parliament of the Bill which became the DDA 2005, concerns were expressed in the House of Lords that some disabled people could become confined to their homes if adaptations to the common parts of the premises could not be made to meet their needs. The then Government established the Review Group on Common Parts (RGCP) to determine whether a change in the law was needed in relation to alterations to the common parts of let residential premises. The RGCP concluded that a problem existed and made a series of recommendations in its report published on 23 December 2005<sup>29</sup>. The previous Government agreed to introduce legislation to facilitate the making of reasonable disability-related alterations to the common parts of leasehold and commonhold residential premises. This provision is included in the EA 2010.

8.6 The Government considers that, although the DDA 2005 generally met its intended aims and objectives, there was still room for improvement in respect of protection for disabled people. Consequently, the Government supported revisions of disability discrimination legislation through the Equality Bill, and supported a range of amendments made during Parliamentary scrutiny. The Government considers that the Equality Act 2010, most of which it brought into force from 1 October 2010, addresses deficiencies that there were in the protection provided by the DDA 2005, and by the DDA 1995, which it amended. An assessment of the Equality Act 2010 is planned to be conducted in due course.

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<sup>29</sup> <http://dwp.gov.uk/docs/review-common-parts.pdf>



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