

# The Disability Equality Duty - it can affect us all

## 1. INTRODUCTION

The Disability Discrimination Act (DDA) 2005 introduced a new duty to promote disability equality on education providers and other public sector bodies in England, Scotland and Wales. The Disability Equality Duty (DED) came into force in December 2006, and represents the most significant legislative development for the post-16 education sector's duties towards disabled people.

This legislation builds upon progress already made by many providers in improving disability equality in education. However, it will extend the DDA 1995 requirements – to **anticipate** and **respond** to the individual needs of disabled people – to a duty under which organisations must become **proactive** agents of change.

The new legislation will encourage a systematic whole-organisational approach by mainstreaming disability equality to make it central to the work of all public sector bodies.

Reference to 'disabled people' includes disabled students, staff, and other users of public facilities, such as visitors to conferences and college open days.

A disabled person is someone who has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. The legal definition is broad and also covers individuals with learning difficulties.

For more information on the definition of disability, please refer to the Equality and Human Rights Commission's website: <http://www.equalityhumanrights.com>

In Northern Ireland, the relevant legislation is the Disability Discrimination Act 1995 (Amendment) Regulations (NI) 2004, as amended by the Disability Discrimination Act 1995 (Amendment) Regulations (NI) 2004. For further information please refer to the Equality Commission for Northern Ireland's website at: [www.equalityni.org](http://www.equalityni.org).

## 2. GENERAL AND SPECIFIC DUTIES

The duty is made up of two elements, the 'general' duty and the 'specific' duties. The **general duties** are to:

- promote equality of opportunity between disabled people and other people;
- eliminate discrimination that is unlawful under the Disability Discrimination Act;
- eliminate disability related harassment;
- provide positive attitudes towards disabled people;
- encourage participation by disabled people in public life; and
- take steps to meet disabled peoples' needs, even if this requires **more favourable treatment**.

In addition, there are **specific duties** for listed public authorities, including education providers, which demonstrate how public authorities are going to meet the general duties. These organisations will need to:

- publish a Disability Equality Scheme by December 2006;
- prepare and regularly review an action plan detailing the steps it plans to take to meet the new duties; and

- review, revise and publish their scheme every three years.

### 3. WHAT ARE THE KEY ELEMENTS OF A DISABILITY EQUALITY SCHEME?

Disability Equality Schemes should include:

- key areas for improvement, including specific outcomes to achieve within the next three years;
- the ways in which disabled people are actively involved;
- the methods for assessing the impact of policies and practices;
- the arrangements for gathering information to measure and evaluate progress and performance; and
- the ways in which progress and performance are reported annually.

### 4. WHAT IS MEANT BY 'MORE FAVOURABLE TREATMENT'?

More favourable treatment recognises that equality of opportunity for disabled people cannot be achieved by simply treating disabled and non-disabled people the same. Public authorities have a duty to provide *reasonable adjustments* to ensure that disabled staff and learners can access an appropriate working and learning environment.

### 5. WHAT IS MEANT BY 'ENCOURAGE PARTICIPATION BY DISABLED PEOPLE'?

Public authorities should *actively involve* disabled people from the outset in all aspects of equality 'proofing' their work.

Involvement should consider the full range of disabled people with different impairments and should mean active involvement and not just consultation.

### 6. HOW IS THE DUTY ENFORCED?

The duty is enforced by the Equality and Human Rights Commission (EHRC). These bodies have the power to take legal action against colleges and universities where they fail to carry out their responsibilities under the DED.

### 7. HOW DOES THIS AFFECT MY WORK IN THE SECTOR?

When carrying out your work, as a start, you should be asking yourself some of the following questions:

- How do we recruit, develop, and retain staff into the sector and do our policies include any unnecessary barriers to disabled people?
- Do I have access to sufficient and reliable data that can allow me to measure the effect of policies and practices of disabled staff working in the sector?
- Am I actively involving disabled people in the quality review process of my work? Can I involve specialist networks in my external project steering group?
- Can I ensure that any marketing materials I produce are accessible and available in different formats, and that this is well publicized?
- How can I use the marketing material I produce to promote positive attitudes towards disabled people and challenge negative stereotypes?