



Disability Equality Duty

The 2005 Disability Discrimination Act proposes several changes to existing disability equality law. These come into effect on 5 December 2006. All public sector bodies (including colleges and universities) will now be subject to a general duty to promote equality between disabled and non-disabled people. This is similar to the duty to promote race equality under the Race Relations (Amendment) Act. This is a positive duty which builds in disability equality at the beginning of the process rather than make adjustments at the end after disabled people have complained about discrimination. Universities and colleges will also be subject to a number of specific duties.

Summary of the general duty

The basic requirement for a public authority when carrying out their functions is to have due regard to:

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

Specific duties

A number of specific duties will also come into effect:

- Public sector bodies (including universities and colleges) will be required to write and publish disability equality schemes
- Institutions must collect and analyse data on disabled staff and students

- Institutions will be obliged to reflect on the outcomes of monitoring, and publish a disability equality scheme, setting out what they will do to promote disability equality
- Institutions will have a duty to monitor the effectiveness of the scheme
- Institutions will be obliged to carry out a disability impact assessment: this means that they will have a duty to look at the effectiveness of current and proposed policies and disability equality schemes and assess their likely effectiveness in terms of creating equality between disabled and non-disabled staff, and disabled and non-disabled students

All the specific duties set out in the Act are also subject to one further and defining obligation:

- The institution has a duty to actively involve disabled people and the Code of Practice recommends involving staff unions in the implementation of the Act

“Involvement” requires active engagement of disabled stakeholders, not simply “consultation”. Disabled people need to be involved in identifying barriers faced by disabled people, setting priorities for action plans and assisting planning activity.

This duty to involve is stronger than the equivalent duties in other anti-discrimination legislation, including the Race Relations Amendment Act) where the requirement is to consult.

The Disability Equality Scheme and Action Plan

The purpose of the Disability Equality Scheme is to demonstrate how public bodies intend to fulfil both their general and specific duties. All universities and colleges must have produced their Disability Equality Scheme by 4 December 2006. The essential elements that the Disability Equality Scheme must include are:

- a statement of how disabled people have been involved in developing the scheme
- the action plan
- arrangements for gathering information about performance of the public body on disability equality
- arrangements for assessing the impact of the activities of the authority on disability equality and improving these when necessary
- details of how the authority is going to use the information gathered, in particular in reviewing the effectiveness of its action plan and preparing subsequent schemes.

Institutions will have to report on progress on an annual basis.

Key dates

By 4 December 2006 all universities and colleges must produce and publish their Disability Equality Scheme.

Involving disabled people

At the heart of the Disability Equality Duty is the requirement to involve disabled people in producing the Disability Equality Scheme including the action plan. Involving disabled people is not only a requirement of the duty but it should bring tremendous benefit in terms of expertise to the institution. Involvement should not be confused with consultation. This duty requires a very active engagement of disabled stakeholders at all stages, not simply consultation.

There will be a wide variety of ways of involving disabled people. These could include through:

- existing forums, such as disabled staff networks
- setting up specialist forums of disabled people (where none exist at present)
- workplace trade unions
- segmenting and developing existing consultation mechanisms or utilising existing networks.

How will the Duty be enforced?

In relation to the specific duty and those bodies who will have to produce a Disability Equality Scheme, the DRC (Disability Rights Commission) will have the power to issue compliance notices where it is satisfied that a public authority has failed to comply with its specific duties under the regulations, and can enforce the notices in the county or sheriff court. In terms of the general duty any person, including the DRC, can apply to the High Court or Court of Session of a public body they thought was failing to comply.

Checklist for branches/local associations

- Use the introduction of the DED as part of your bargaining agenda – *think about how to use the general and specific duties in any relevant casework and negotiations you are involved in*
- Build disability equality into the way you organise – *you will find that disabled members may want to get involved and active in this area of work*
- Encourage disabled members to join self organised groups and networks – at local, regional and national level – *contact AUT and NATFHE for more information about how to do this*
- Encourage your employer to actively involve a wide range of disabled people in its work in this area

- Press your employer to understand and adopt the social model of disability - *The Social Model changes the focus away from people's impairments and towards removing the barriers that disabled people face in every day life: it is not the impairment that is the problem, or the disabled person, rather it is society's failure to take into account our diverse needs*
- Press your employer to run Disability Equality Training for all staff
- Get involved now in the development of the Disability Equality Scheme – *put the Disability Equality Duty on the agenda of your next Equality Committee or Joint Negotiating meeting with your employer. Find out what has been done to date. Ensure there is trade union representation on the Group tasked with producing the scheme. Ensure the Group is actively involving disabled people in its work. Send completed schemes to AUT or NATFHE (or UCU)*
- From 5 December 2006 monitor the Disability Equality Scheme and associated Action Plan
- Tell members about disability equality and the new Disability Equality Duty and let them know about the work you are doing in this area

Questions to ask:

1. Does your institution have an Equality Committee / Forum with trade union representation?
2. Does your institution have a disabled staff group?
3. Is there a disability policy?
4. Was it negotiated with the union?
5. Were disabled members of staff actively involved in writing it?
6. Has the disability policy been updated to take into account the Disability Discrimination Act 2005?
7. Do all members of staff have copies of the policy?
8. Has your institution begun to collect and analyse evidence on disability and the promotion of disability equality?
9. Has the institution set targets for recruitment where the staff population is under-representative of key groups?
10. Have members of staff been invited to contribute to a public discussion on what the general duty to promote equality between disabled and non-disabled people means for all areas of the institution's work: including budgeting, work with contractors, maintenance of buildings, curriculum ...?

11. Have groups of disabled staff been actively involved in assessing the institution's general progress towards achieving equality between disabled and non-disabled people?
12. Have groups of disabled staff been specifically consulted on key institutional policies and practices, which are likely to have a significant impact on disabled staff?
13. Have all staff received training in work time on the implementation of the Act?

If the answer to questions 3, 5, 6, 8, 9 or 12 is no, your employer may be breaking the law.

Further information

Disability Rights Commission

<http://www.drc-gb.org>

<http://www.drc.org.uk/businessandservices/publicsectordutycode.asp>

http://www.drc-gb.org/documents/dda_2005.doc

Department for Work and Pensions

http://www.dwp.gov.uk/aboutus/dda_2005.asp

TUC – Advice for unions on the 2006 Public Sector Disability Equality Duty

<http://www.tuc.org.uk/equality/tuc-11323-f0.cfm>

Equality Challenge Unit – Disability guidance

<http://www.ecu.ac.uk/guidance/disability/guidance.htm>

UCU

<http://www.ucu.org.uk>

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