



The Impact of the Disability Access Law on Businesses

Since 1996 it has been unlawful for service providers to treat disabled persons less favourably because of their disability. And since 1999 service providers have had to make certain kinds of “reasonable adjustments” for disabled persons such as changing the way they provide their services or providing auxiliary aids. Anyone who provides a service to the public or a section of the public is a service provider whether they charge for access to the service or not.

From 1 October 2004 the obligations on service providers were extended as a result of which they now they have to consider making “reasonable adjustments” to their premises and other physical features of those premises so that there are no physical barriers stopping or making it unreasonably difficult for disabled persons to use their services. Physical features cover any feature arising from the design and construction of the building and include such things as car parks, entrances, steps, paths, lighting, signage, display stands etc.

This means that service providers require to remove the physical feature, alter it, provide a means of avoiding it or provide an alternative method of making the service available.

As a result, service providers need to think whether non-disabled people would consider unreasonable the time, inconvenience, effort, discomfort or loss of dignity experienced by a disabled person in using their service if they had to endure similar difficulties.

A service provider's duties are anticipatory and continuing. This means service providers need to keep thinking ahead and continually re-evaluating the way they provide their services.

Any breach of the above obligations is enforced in the Sheriff Court with the possibility of awards of compensation for hurt feelings being made if the pursuer is successful. There is also the risk of costs being awarded in favour of the successful party in these sorts of cases – unlike Employment Tribunal cases where it is rare for any costs to be awarded - which may be proving a disincentive for disabled people pursuing such claims. Certainly, the expectation when these provisions were introduced a year ago was that many cases would follow but the reality is that this does not seem to have happened. The issue of costs may be part of the reason for this along with lack of awareness and the complexities of the legal system.

However a significant action is just starting against Debenhams which is being supported by the Disability Rights Commission. This case is likely to get a significant amount of publicity thereby raising awareness which may be the kick start this legislation needs.

And on a positive note, out and about it seems that service providers are taking the duty seriously in that there would seem to be appreciably more ramps/better signage/accessible loos and lifts etc. suggesting that the legislation is having an impact in

achieving better access for disabled people. As a result those service providers who have not yet addressed their accessibility issues will start to lag behind those who have in terms of good customer care risking losing out on the market available from disabled customers and their families and friends.

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