

To: Business Committee

From: Jane Hutt AM
Business Minister

EXPLANATORY MEMORANDUM

DISABLED PERSONS

THE DISABILITY DISCRIMINATION (PUBLIC AUTHORITIES) (STATUTORY DUTIES) REGULATIONS 2005

Summary

The purpose of the Disability Discrimination Act 2005 is to give comprehensive civil rights to disabled people in employment and society more widely. This Act amends the Disability Discrimination Act 1995 and will extend basic rights and opportunities for disabled people. The Act introduces a general duty on the public sector to promote equality of opportunity for disabled people, and specific duties on some public authority's to assist in the planning, delivery and evaluation of action to meet the general duty and report on activities.

These Regulations support the effective introduction of the duty by requiring public authorities to produce and publish a Disability Equality Scheme (DES).

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005, in accordance with Standing Order 26.
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The powers enabling this Instrument to be made are contained in sections 49D(1) and (2) and 67(2) and (3) of the Disability Discrimination Act 1995. The National Assembly for Wales' consent is required before this Instrument can be made.

Effect

4. The Disability Discrimination Act 2005 amends the Disability Discrimination Act 1995 and introduces a general duty on public authorities to have due regard to the need to:
 - eliminate unlawful discrimination against disabled people;
 - eliminate unlawful harassment of disabled people for reasons related to their disabilities;
 - promote equality of opportunity between disabled persons and other persons by improving opportunities for disabled persons;

- take steps to take account of disabled people's disabilities;
 - promote positive attitudes to disabled people; and
 - encourage disabled people's participation in public life.
5. In addition to this general duty, certain public authorities are subject to what are known as “specific duties”, as laid down in Regulations. These specific duties are placed on certain Secretaries of State and the National Assembly for Wales. The Regulations set out what steps must be taken to assist public authorities in fulfilling the general duty.
6. As part of the specific duties public bodies are required to draft and implement a Disability Equality Scheme (DES). The production of a DES will require public bodies (including the National Assembly for Wales) to ensure that their policies, services and employment address the different needs of disabled people. Ultimately, the goal of the DES is to narrow the gaps in the outcomes and experiences of disabled people and non-disabled people. In producing the DES public authorities are required to involve disabled people in its development.
7. The Scheme itself should include:
- an introduction which provides information about the public authority, its broad values and objectives, as well as a statement of its current position in relation to disability equality;
 - a statement on the ways in which disabled people have been involved in its development;
 - the authority’s methods for assessing the impact of its policies and practices, or the likely impact of proposed policies and practices, on equality for disabled people;
 - the steps it will take to fulfil the general duty and improve outcomes for disabled people within the period of time covered by the scheme (i.e. measurable indicators/key milestones/action plans); and
 - arrangements for gathering information on the effect of their policies and practices on disabled persons particularly in relation to:
 - the effect of recruitment, development and retention of its disabled employees
 - the educational opportunities available to, and on the achievements of disabled pupils and students; and
 - the extent to which the services it provides and those other functions it performs take account of the needs of disabled persons.
8. The Scheme will also include details on arrangements for:
- reviewing, on a regular basis, the effectiveness of the steps public authority’s propose to take to fulfil the requirements of the duty, monitoring whether outcomes are improving for disabled people and act on this;
 - preparing subsequent Disability Equality Schemes; and

- reviewing and publishing a revised scheme every 3 years, however, there is an expectation to publish annual summary reports to serve as updates on progress.
9. Schools in Wales are also covered by the general and specific duties, but do not have to comply with the Regulations until 1 April 2007, unlike other public bodies who will have to comply with the legislation from 5 December 2005.
10. Schools in Wales do not have to comply with the duty until a later date so that the duty can be implemented at the same time as the introduction of the schools new accessibility plans which will also come into force on 1 April 2007.

Target Implementation

11. It is intended that this Instrument will proceed to Plenary on 11 October 2005 for the Assembly to confirm, approve or give its consent to the Regulations. The Department for Work and Pensions (DWP) will then lay the Regulations before Parliament in October with a coming into force date of 5 December 2005.

Financial Implications

12. It is difficult to quantify the costs to the National Assembly for Wales and the wider public sector because the general duty is not absolute. Rather, authorities are required to give 'due regard' to eliminating unlawful behaviour, and promoting equality of opportunity. This duty can be balanced against other legal obligations, and available resources.

13. Costs may arise for two reasons:

- (i) in order to eliminate discrimination within public authorities or to promote equality within them; or
- (ii) in relation to the administrative arrangements required by public authorities.

14. The majority of costs will arise from (ii) and in particular from the requirement to draft and publish a Disability Equality Scheme. Public Authorities will be required to review and update their Disability Equality Schemes every three years.

15. Estimated costs of implementing the general duty and specific duties are set out in the Department of Work and Pensions' Regulatory Impact Assessment which can be accessed using the attached link:

<http://www.dwp.gov.uk/publications/dwp/2005/ria/dda-2005-final.pdf>

Consultation

With Stakeholders

16. A public consultation called "Delivering equality for disabled people" was carried out by the UK Government between 23 July 2004 and 21 October 2004. In response to the consultation the DWP had 200 written responses and nearly 700 people attended consultation events around the UK. One of the consultation events was held in Cardiff in September 2004. No particular Welsh issues were raised during the consultation and the only substantive changes made to the

Regulations as a result of the consultation exercise were in relation to schools (see paragraphs 9 and 10).

With Subject Committee

17. These Regulations were notified to the Equality of Opportunity Committee on 22 September 2005 (EOC(2) 07-05 (p.6)e). The Committee did not make any comments. The Business Minister also wrote to all the Subject Committee Chairs and the Chair of the House Committee on 5 October 2005, enclosing a copy of the Regulations.