

## THE EQUALITY ACT 2010

### Introduction

The Equality Act 2010 replaces the existing anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier to understand and comply with. It includes a duty to make a 'reasonable adjustment' for a disabled person. The changes also include new provisions on direct discrimination, discrimination arising from disability, harassment and indirect discrimination.

The Act affects both adults and children, and defines a person with a disability as someone who has a physical or mental impairment, including sensory and hidden impairment. The effect of the disability must be substantial, adverse or long term (i.e. for at least a year). Disability may involve difficulty in walking, a mental health condition, blindness or partial sightedness, impaired speech, learning difficulties, deafness, severe disfigurement, epilepsy or diabetes.

### Discrimination

It is unlawful to discriminate against someone because of their disability. Discrimination is defined in occurring in two possible ways:-

- Treating the disabled person less favourably than others for an unjustifiable reason related to the disability.
- Failure to include 'reasonable adjustments' in relation to the disabled person and inability to justify the failure.

### Reasonable Adjustments

Some factors when considering what 'reasonable adjustments' may mean in practice are:-

- Whether taking particular steps would be effective in overcoming the difficulty that disabled people face in getting access;
- The extent to which it is practicable for the service provider to take the steps;
- Financial and other costs of making the adjustment;
- The amount of disruption caused by taking the steps;
- Money already spent on making adjustments; and
- The availability of financial or other assistance.

### Service Providers

The Act places a duty on those providing goods, facilities or services to the public, making it unlawful for service providers to discriminate against disabled people in certain circumstances. A service provider is anyone who provides a service to the public or a section of the public; it is irrelevant whether or not one pays for the service. Therefore, churches are service providers.

### The Responsibility of the Church

Churches are required to consider the difficulties that disabled people attending their premises would face, and make necessary alterations where reasonable to do so. These could be:-

- Changing a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to use their facilities;
- Providing an auxiliary aid or service if it would enable (or make it easier for) disabled people to make use of their facilities; or

- Taking, where a physical feature of the premises makes it impossible or unreasonably difficult for disabled people to make sure use of the facilities, reasonable steps to:-
  - Remove the feature; or
  - Alter it so that it no longer has that effect; or
  - Provide a reasonable means of avoiding it; or
  - Provide a reasonable alternative method of making the facilities available.

### **Some Practical Examples**

A church may have a couple of steps leading to the entrance. There is space for a ramp to be constructed, so it is *reasonable* to expect the church to do so. On the other hand, it may be contended that it is *unreasonable* for a church with 20 steps and no space to construct a ramp to be expected to do so. Or a church may normally serves its refreshments upstairs. One solution would be to install a lift to be used by disabled people. However, a *reasonable* solution would be to also serve refreshments downstairs.

The important thing is that the church has identified the problem, has considered what is *reasonable*, and implemented the results of their findings. Where a church does not take action on the grounds of the proposed alterations being *unreasonable*, they are advised to keep a written record of the reasons. If the grounds are based on prohibitive costs it would be advisable to have a quotation on the file as evidence of the fact.

That said, churches should regularly review any changes made because the duty to make reasonable adjustments is a continuous one. Indeed it may be useful to keep in mind that the Equality Act is essentially about *people*, not *buildings*. Therefore every sphere of church life should be considered with an eye to better facilitating the participation of those with disabilities. With this in mind, churches may wish to carry out and record regular premises assessments, taking into account, as well as including, the practical input of people with disabilities.

### **Changing Physical Features**

Some physical features to consider in church buildings are toilet facilities, counter tops (i.e. height), car parking, kerbs, paving, stairs, doors (internal and external), location of light switches, Braille signage, gates, lighting, ventilation, general access, and emergency exits. Bear in mind, however, that the Equality Act does not override the need to obtain statutory consent (i.e., Planning Permission, Listed Building Consent, Monument Consent, English Heritage, Building Regulations, Fire Authority Approval and Party Wall Notice). Specialist advice needs to be sought if for example a lease or some other building obligation indicates that certain changes to premises cannot be made.

### **Practical Checklist**

We have taken out a licence to reproduce a very extensive checklist that has been produced by the Centre for Accessible Environments ([www.cae.org.uk](http://www.cae.org.uk)) and this is available from the office at a cost of £5. Churches are not permitted to photocopy the checklist but they may obtain further copies from this office.

We realise that some churches may need further assistance as they seek to ensure compliance with the Equality Act and we would direct you to the Centre for Accessible Environments. However, if the question concerns matters specifically related to your own site you may need professional advice. In that case we should be able to steer you in the direction of local professional advisors. Whilst this may be expensive for the church in the short term, it might be more expensive in the long term if the church were to do nothing. One can imagine the scenario of a local troublemaker taking action against a church out of spite. It is therefore important that churches do follow the procedures set out in these guidance notes.

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