

Equality Commission

FOR NORTHERN IRELAND

A Guide for Public Authorities-

**Promoting positive attitudes
towards disabled people and
encouraging the participation
of disabled people in public life.**

**The Disability Discrimination Act 1995 (as modified by
Schedule 8 thereof for application in Northern Ireland)**

This guide was produced by the Equality Commission for Northern Ireland. The Equality Commission gratefully acknowledges the contribution made by the Disability Rights Commission, Great Britain, to this publication.

This guide can be obtained from the Equality Commission in alternative formats, including in large print, in Braille, on audio cassette and on computer disc. It can also be downloaded from the Equality Commission's website. If you would like a copy in an alternative format, please contact:

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1.1 Under section 49A of the **Disability Discrimination Act 1995** (the 'DDA 1995'), (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006), public authorities, when carrying out their functions must have due regard to the need to:

- **promote positive attitudes towards disabled people; and**
- **encourage participation by disabled people in public life.**

Section 49A of the DDA 1995 introduces a 'General duty' which has two elements. For the purposes of this Guide, the two elements are referred to as '**the disability duties**'. The disability duties came into effect on **1 January 2007**.

1.2 Under section 49B of the DDA 1995, public authorities are also under a duty to submit to the Equality Commission plans (referred to as '**disability action plans**') showing how they propose to fulfil the disability duties in relation to their functions. These disability action plans (or revised disability action plans), **must** as regards form and content, conform to the guidelines contained within Chapter 4.

The provisions of Sections 49A and 49B of the DDA 1995 are outlined in full in Appendix E.

1.3 The legal status of this Guide is as follows:-

- Chapter 4 of this Guide gives guidelines on the form and content of a disability action plan. This section of the Guide has been approved by the Office of the First Minister and Deputy First Minister in line with section 49B of the DDA 1995. As stated in paragraph 1.2, disability action plans (or revised disability action plans), must as regards form and content conform to the guidelines in Chapter 4.
- The remaining parts of the Guide (Chapters 1, 2, 3, 5, 6 & 7) give further guidance on how public authorities can proactively implement the disability duties, including monitoring and reviewing progress, as well as outlining the role of the Equality Commission. These Chapters do not form part of the guidelines mentioned above.

- 1.4 The introduction of the disability duties in Northern Ireland reflect changes to disability legislation in Great Britain (GB) which came into effect on 4 December 2006. From that date, public authorities in GB (bar certain exemptions) are under a general duty to promote disability equality which includes the requirement to have due regard to the need to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life.
- 1.5 Throughout this Guide, examples of good practice and how the disability duties are likely to work are given in boxes. They are intended simply to illustrate the principles and concepts used in the legislation. They should not be treated as complete or authoritative statements of the law.
- 1.6 These guidelines refer to the DDA 1995 as at the date of publication. As mentioned earlier, the disability duties came into effect on 1 January 2007. There are however further changes to the DDA 1995 which have yet to be implemented.

These, as well as future changes to other legislation, may have an effect on the disability duties as explained in this Guide. Public authorities will need to ensure that they keep up-to-date with any developments that affect the provisions of the DDA 1995. These guidelines may also require revision following the outcome of the Equality Commission's effectiveness review of Section 75 of the Northern Ireland Act 1998 ('Section 75'), which is due to be completed in early 2007. Relevant information on changes to the DDA 1995 and the effectiveness review can be obtained from the Equality Commission.

- 1.7 This Guide can be obtained, on request, in alternative formats, including in large print, in Braille, on audio cassette, in easy read and on computer disc. It can also be downloaded from the Equality Commission's website: www.equalityni.org. A range of publications on other aspects of the disability legislation, including the following Codes of Practice, are available, free of charge from the Equality Commission, or can be downloaded from the Commission's website:
- Disability Code of Practice, Employment and Occupation.
 - Disability Code of Practice, Trade Organisations and Qualifications Bodies.
 - Code of Practice, Rights of Access - Goods, Facilities, Services and Premises.

- Disability Discrimination Code of Practice for Further and Higher Education -Special Educational Needs and Disability (Northern Ireland) Order 2005.
- Disability Discrimination Code of Practice for Schools - Special Educational Needs and Disability (Northern Ireland) Order 2005.

1.8 More detailed advice on the disability duties and information on preparing and implementing a disability action plan, can be obtained from:

The Equality Commission

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KEY POINTS

1. From 1 January 2007, under the DDA 1995, public authorities are required when carrying out their functions to have due regard to the need to:-
 - a) promote positive attitudes towards disabled people; and
 - b) encourage the participation of disabled people in public life.
2. These duties apply to **all** public authorities subject to Section 75 of the Northern Ireland Act 1998 (subject to certain exemptions).
3. Promoting positive attitudes can include taking steps to portray disabled people in a positive role, as well as taking steps to eliminate ignorance and prejudice towards disabled people.
4. Encouraging disabled people's participation in public life can include taking measures to involve disabled people in public policy decision making, as well as encouraging their participation in political life (e.g. as members of consultative foras, as elected representatives or as voters).
5. The duties can make a **substantial** and **tangible** difference to the lives of a large number of disabled people in Northern Ireland. Public authorities can also benefit from implementing the disability duties.
6. The duties apply to all disabled people. When implementing the duties, the full diversity of disabled people should be considered, (in terms of type of impairment as well as other dimensions (e.g. race, age, gender etc)). The fact that a disabled person may have **multiple disabilities** should also be taken into account.
7. Although both the disability duties and the existing disability duty under Section 75 are mainstreaming duties, there are differences as regards the implementation and enforcement of these duties.

What are public authorities required to do?

2.1 The disability duties require public authorities, when carrying out their functions, to have due regard to the need to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life. They require public authorities to adopt a **proactive** approach, mainstreaming the duties into all decisions and activities.

- **Prepare a disability action plan**

Public authorities must prepare a disability action plan showing how they propose to fulfil the disability duties in relation to their functions. The plan must contain certain key elements including an outline of the action measures public authorities intend to take, the timescale over which these measures are to be implemented, performance indicators or targets and details of how the plan will be published.

- **Submit plan to Equality Commission**

Once the plan has been finalised, it must be submitted to the Equality Commission. Public authorities, who are subject to the disability duties as at 1 January 2007, must submit their disability action plans to the Equality Commission by **30 June 2007**.

- **Submit annual progress report to Equality Commission**

They must submit an annual progress report to the Equality Commission on the implementation of their plans. This report should form part of the authority's annual report to the Commission on the implementation of its equality scheme.

- **Review plan every five years**

They must also carry out a review of their plans every **five years** and forward a report of this review to the Equality Commission together with, if requested by the Commission, a revised disability action plan.

A detailed explanation of how public authorities implement the disability duties is given in Chapter 3.

Promoting positive attitudes

- 2.2 The disability duties require public authorities when carrying out their functions, to take into account the need to promote positive attitudes towards disabled people. Examples of how public authorities can promote positive attitudes towards disabled people are given in Chapter 5. They include measures to portray (and encourage others to portray) disabled people in a positive role, as well as steps taken to eliminate ignorance and prejudice towards disabled people in the wider community and the workplace.

Participation in public life

- 2.3 There is also a requirement on public authorities to take into account the need to encourage the participation by disabled people in public life, when exercising their functions. 'Public life' is a very broad term. It includes government public appointments; the House of Lords; Local Strategic Partnerships; community associations or fora; community police liaison committees; neighbourhood watch committees; citizens panels; public bodies' focus or working groups; school Boards of Governors, school councils; youth councils; user groups for a service provided by a public authority. This is not an exhaustive list.

Participation in public life can therefore include the way in which disabled people contribute to or are involved in public policy decision making or decisions relating to the way in which public authorities deliver their services or carry out their functions. This involvement can be at various levels including community, regional and national.

It can also include the way in which disabled people can participate in political life; for example, as elected representatives, members of political fora, in terms of their access to the voting system. It can in addition, include their participation as litigants (in terms of access to the law and Courts), judges (for example, magistrates) and jurors.

Examples of how public authorities can encourage the participation of disabled people in public life are given in Chapter 5.

How do the two parts of the duties relate to each other?

- 2.4 Although there are two distinct parts to the disability duties and each part requires separate consideration, the two parts complement each other; steps taken to implement one part of the duty may also contribute to the implementation of the other part. For example, the participation by disabled people in public life can encourage positive attitudes towards disabled people and vice-versa.

Why are these duties important?

- 2.5 These duties are important for a variety of reasons. The introduction of the duty on public authorities to have due regard to the need to promote the participation of disabled people in public life, reflects the fact that in many areas of public life, disabled people are underrepresented.¹ At present disabled people do not have the same opportunities or choices as non-disabled people. Nor do they enjoy equal respect or full inclusion in society on an equal basis. Often it is attitudinal and environmental factors (such as the way in which services are designed or delivered), rather than limitations arising from a disabled person's disability, which unnecessarily restrict a disabled person's ability to participate fully in society.
- 2.6 In addition, by promoting positive attitudes towards disabled people, public authorities can help eliminate ignorance or prejudice towards disabled people. Whilst many people have positive attitudes towards disabled people, some express pity, fear, lack of respect and/or contempt. Negative attitudes can result in disabled people being rejected, avoided or subjected to physical or verbal attacks, jokes, bullying or other harassment.² It can also result in their being rejected for jobs (including public life positions). Such behaviour can have a serious and long term impact on the lives of disabled people.

¹ For example, statistics show as regards government public appointments across the eleven Government departments in Northern Ireland, that a very low proportion of disabled people apply for such posts; this in turn has an impact on the number of disabled people appointed to these positions. Figures from the Public Appointments Annual Report 2004/05 indicate that during the period in question only 2% of applicants and 2% of appointees were disabled. Figures presented are indicative only of general trends and the figures are based on applicants who declared a disability. Central Appointments Unit OFMDFM (www.ofmdfmi.gov.uk).

² Figures on hate crimes produced by the Police Service for Northern Ireland (PSNI) show that during the period 2005/06 there were 70 disability motivated incidents and 38 disability related recorded crimes (PSNI Statistical Report, 1 April 2005 – 31 March 2006 www.psni.police.uk)

In addition, demeaning stereotypes, or simply the absence of any representation in public images, can also have a very negative impact on disabled peoples' lives.

- 2.7 In summary, public authorities, by mainstreaming the disability duties into their own policies, practices and procedures, as well as by exerting their considerable influence in the wider community, can make a substantial and tangible difference to the lives of a large number of disabled people (including customers and staff) in Northern Ireland³.

How do public authorities benefit from implementing the disability duties?

More informed decision making

- 2.8 Although the disability duties are important as regards the tangible difference they can make to the lives of disabled people in Northern Ireland, public authorities, as well as the wider community, can also benefit from their effective implementation. For example, disabled people bring valuable experience to public life and the increased involvement of disabled people in public policy making can result in more informed decision making. The increased participation of disabled people in focus groups or user groups for a service provided by a public authority, can also help a public authority meet its obligations under Section 75.

Prevent disability harassment

- 2.9 In addition, by taking steps to promote positive attitudes towards disabled people amongst their staff, public authorities are helping to build an equality culture in the workplace in which all employees are treated with dignity and respect regardless of their disability. As prejudice towards disabled people can result in discriminatory conduct, public authorities by implementing measures to eliminate ignorance and prejudice amongst staff, are taking steps to prevent such discriminatory behaviour. In other words, taking steps to promote positive attitudes, (for example, the provision of disability equality training), can help prevent disability harassment and other forms of

³ Around one in five people in Northern Ireland have a disability (around 340,000). This figure is obtained from the Census 2001. It should be noted that the term 'disability' was defined in this Census as 'any long term illness, health problem or disability that limits daily activities or work'.

discrimination, as well as reducing the risk of legal action being taken against public authorities.

Enhance image of public authority

- 2.10 By taking measures to promote positive attitudes towards disabled people and encourage their participation in public life, a public authority can also enhance its image as an organisation which values disabled people and is actively taking steps to promote disability equality. This in turn can encourage disabled people to apply for vacancies within the organisation.

Which public authorities do the disability duties apply to?

- 2.11 Under the DDA 1995, every public authority (subject to the specific exemptions which are explained below) is required when carrying out its functions, to have due regard to the need to promote positive attitudes towards disabled people and to encourage their participation in public life. A 'public authority' has the same meaning as in Section 75. This means that the following categories of public bodies are included:-

- those departments, corporations or bodies listed in Schedule 2 to the Parliamentary Commissioner Act 1967 and designated for the purposes of Section 75 by order made by the Secretary of State. These are mostly United Kingdom - wide public bodies;
- those bodies (other than the Equality Commission itself) listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996;
- those departments or other authorities listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996; and
- any other person designated for the purposes of Section 75 by order made by the Secretary of State.

In addition, Section 75 has been amended by other legislation to the effect that certain other public bodies are subject to the duties under Section 75.

- 2.12 In summary, subject to the exemptions listed below, public authorities which are subject to the duties under Section 75, are also subject to the disability duties. A list of public authorities subject to the duties under Section 75 (as at the date of publication of this Guide) is included in Appendix B.

- 2.13 Designation is an ongoing process and further designations of public authorities may occur. Although not designated for the purposes of Section 75, the Equality Commission when carrying out its functions will have regard to the need to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life. In addition, it will prepare, consult on and implement a disability action plan showing how it proposes to fulfil the disability duties in relation to its functions.
- 2.14 The Equality Commission is mindful of the planned changes to be introduced as a result of the Review of Public Administration (RPA), which will result in changes to the functions of some public authorities, as well as the creation of new authorities. It will be liaising directly with those authorities as regards their designation for the purposes of Section 75 and their obligations in relation to the disability duties.
- 2.15 Under the DDA 1995, the functions of the Director of Public Prosecutions for Northern Ireland relating to the prosecution of offences and any act of a description prescribed by future legislation are exempt from the disability duties.

Can a public authority be exempted from the duty to produce a disability action plan?

- 2.16 All public authorities which are subject to the disability duties are required to submit a disability action plan to the Equality Commission unless exempted from producing such a plan by the Commission.

A public authority which would otherwise be required to produce a disability action plan can only be exempted from producing such a plan where it has been so notified in writing by the Equality Commission.

- 2.17 The Commission is of the view that an exemption will only be granted in exceptional circumstances. In deciding whether to grant an exemption to an authority, the Equality Commission will take account of:
- the impact of the public authority's work on promoting positive attitudes towards disabled people and encouraging the participation by disabled people in public life in Northern Ireland;

- whether the public authority's activities in Northern Ireland are minimal;
- whether the effort involved in preparing the disability action plan and validating it, is disproportionate to the public authority's impact on promoting positive attitudes towards disabled people and encouraging participation by disabled people in public life in Northern Ireland; and
- any other circumstances which in the opinion of the Equality Commission would justify an exemption.

All requests to the Equality Commission for an exemption **must** be in writing.

- 2.18 It should be noted that the exemption relates to the duty to produce a disability action plan and not to the disability duties. Therefore, although a public authority may be exempt from producing a plan, it will still be subject to the general duty to have due regard to the need when carrying out its functions, to promote positive attitudes towards disabled people and encourage their participation in public life.
- 2.19 A list of public authorities who have been granted an exemption to the duty to produce a disability action plan, can be obtained from the Equality Commission's website (www.equalityni.org). Public authorities who have been granted an exemption should also make this clear on their own website (where one exists).

To whom do the duties relate?

- 2.20 The duties relate to disabled people. This includes disabled members of the public, disabled employees, customers, clients and service users, as well as disabled young people, children, students and pupils.
- 2.21 Under the DDA 1995 a disabled person is someone who has a physical or mental impairment which has an effect on his or her ability to carry out normal day-to-day activities. That effect must be:
- substantial (that is, more than minor or trivial); and
 - adverse; and
 - long term (that is, it has lasted or is likely to last for at least a year or for the rest of the life of the person affected).

For a fuller understanding of the meaning of disability under the DDA 1995, reference should be made to Appendix C. A Government publication entitled 'Guidance on matters to be taken into account in determining questions relating to the definition of disability' provides additional help in understanding the concept of disability and in identifying who is a disabled person. This guidance is available from the Stationery Office - see Appendix D for contact details.

When considering the disability duties, public authorities should not use any definition of 'disabled person' which is narrower than that in the DDA 1995.

2.22 It is important for public authorities, when implementing the disability duties, to consider the full diversity of disabled people in terms of the type of impairment. Disabled people with different impairments can experience fundamentally different barriers, and have very different experiences according to their type of impairment. Public authorities should also consider the effects of the disability on the disabled person and recognise that a disabled person may have multiple disabilities and experience a range of barriers due to the nature of their impairments.

2.23 Research⁴ has shown that many people cite mobility problems, visual impairments and progressive illnesses as being 'disabilities'. When considering what measures can be implemented to promote positive attitudes towards disabled people and encourage their participation in public life, public authorities should be mindful that the disability duties are owed towards **all** disabled people and should not be restricted to people with certain types of disabilities.

Impairments can take many forms; some visible, some hidden. For example, the disability duties apply to people with hidden disabilities (such as forms of depression and anxiety, diabetes and dyslexia).

2.24 Consideration should also be given to the diversity of disabled people in terms of other dimensions such as race, age, gender, sexual orientation, and religious belief.

⁴Woodfield K. et al (2002) 'Disabled for Life? Attitudes towards, and experiences of, disability in Britain', Department for Work and Pensions research report 173, CDS:Leeds

How do the disability duties relate to the existing duties on public authorities under Section 75?

2.25 Public authorities are already, by virtue of Section 75, under a duty when carrying out their functions in Northern Ireland to have due regard to the need to promote equality of opportunity:

- between persons with a disability and persons without;
- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally; and
- between persons with dependents and persons without.

Public authorities must also under Section 75, have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

2.26 The disability duties both support the existing disability statutory duty under Section 75 and require due regard in their own right. Promoting positive attitudes towards disabled people and encouraging their participation in public life contribute to the overall goal of promoting equality of opportunity for disabled people.

Similarly, a policy or practice which discourages disabled people from participating in public life or fails to promote positive attitudes towards disabled people is not promoting equality of opportunity for disabled people under Section 75.

Positive Action and Affirmative action

2.27 Equality for disabled people may mean treating them 'more favourably'. Equality of opportunity cannot be achieved simply by treating disabled and non-disabled people alike. This principle has always been recognised in the DDA 1995. In addition, the duty under Section 75 to promote equality of opportunity between disabled people and non-disabled people does not inhibit the ability of public authorities to take action to counter disadvantage. On the contrary, as made clear in the revised *Guide to the Statutory Duties*,⁵ public authorities **are bound** to have regard to the need for affirmative action when considering their duties under Section 75.

⁵ Guide to the Statutory Duties, Equality Commission for Northern Ireland, published February 2005

The *Guide to the Statutory Duties* quotes Lord Dubs who, when referring to the relationship between the duties under Section 75 and New Targeting Social Need (New TSN) policy initiative, stated that “the obligation relates to equality of opportunity, not equal treatment, so it is hard to see an incompatibility between it and addressing disadvantage among women travellers or people with disabilities.”⁶

- 2.28 Unlike other anti-discrimination laws, the DDA 1995 does not prohibit or restrict positive discrimination in favour of disabled people. This is because under the DDA 1995 only disabled people are protected against discrimination, and not those who are not disabled.

Good Relations

- 2.29 Although the disability duties relate solely to disabled people, public authorities should be mindful of the need to promote positive attitudes and encourage the participation in public life of other equality groups protected under Section 75. Measures undertaken to promote positive attitudes towards disabled people, should, for example, work alongside initiatives taken by public authorities to promote good relations under Section 75(2) in the areas of race, religion and political opinion. Public authorities should draw on their experiences and knowledge gained, as well as partnerships formed, through their work on promoting good relations on these grounds, when drafting their disability action plans.

Example

A local authority decides to take a range of measures aimed at promoting good relations within the workplace and within the local communities which it serves. It also considers what opportunities there are, when implementing those good relations measures, to promote positive attitudes towards disabled people.

Building on Section 75 practices and procedures

- 2.30 Many public authorities will already have practices and procedures in place, which will assist them in fulfilling their responsibilities in relation to the disability duties. For example, many public authorities have already forged strong links and created good communication channels with disabled people, which will make it easier to consult with disabled people as regards the implementation of their disability action plan.

⁶ House of Lords, Official report, 26 October 1998, Lord Dubs

- 2.31 As a result of their duties under Section 75, many public authorities have already taken measures to promote positive attitudes towards disabled people and encourage the participation by disabled people in public life. It should however be stressed that although measures may already have been taken, this is a **continuing duty** on public authorities to consider what **further** steps it can take and what **additional opportunities** there are to promote positive attitudes towards disabled people and encourage their participation in public life.
- 2.32 The reporting mechanisms relating to the disability duties have also been tailored to coincide with the existing reporting mechanisms under Section 75. In particular, the annual and five yearly review reports by public authorities on the implementation of their disability action plans are to be included in their annual and five yearly review reports on the implementation of their equality schemes, which public authorities are already required to submit to the Equality Commission.

How does a disability action plan differ from an equality scheme?

- 2.33 A disability action plan is separate to and different from an equality scheme which public authorities have to submit under Section 75. For example, an equality scheme shows how a public authority proposes to fulfil its duties under Section 75; which relates to the promotion of equality of opportunity across nine equality grounds and the promotion of good relations across three equality grounds. In contrast, a disability action plan has a much narrower focus. It relates to two particular areas solely within the equality ground of disability; the need to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life. An action plan also includes specific action measures for promoting positive attitudes towards disabled people and encouraging their participation in public life, together with performance indicators and a timetable for taking those measures.

A disability action plan is also different from a disability equality scheme which GB public authorities (bar certain exceptions) are required to implement (see paragraph 3.46).

- 2.34 There are also differences as regards the way in which the disability duties and the duties under Section 75 are enforced. If a public authority fails to submit a disability action plan to the Equality

Commission, the Commission must report that failure to the Assembly. Under the Northern Ireland Act 1998, an individual can make a complaint against a public authority arising out of its alleged failure to comply with an equality scheme, or the Equality Commission can carry out an investigation if it believes that a public authority may have failed to comply with its scheme.

Chapter 3 - Implementing the Disability Duties - Key requirements

KEY POINTS

1. Public authorities are required to:-
 - mainstream the duties;
 - prepare a disability action plan and submit it to the Equality Commission by **30 June 2007**;
 - report **annually** on the implementation of their plans; and
 - review their plans **every 5 years**.
2. It is recommended that public authorities consult on their action plans, allowing a period of **at least 2 months** for the consultation period. The consultation should be inclusive, targeted and use appropriate methods.
3. GB public authorities subject to the disability duties, must submit action plans to the Commission in accordance with the legislative timescale.
4. Public authorities should put in place the following important mechanisms for successful compliance with the duties:-
 - commitment;
 - focusing on effective change;
 - partnership working;
 - procurement; and
 - provision of disability equality generally.

Chapter 3 - Implementing the Disability Duties - Key requirements

Mainstreaming

- 3.1 The disability duties require public authorities, when carrying out their functions to have **due regard** to the need to promote positive attitudes towards disabled people and encourage their participation in public life. The disability duties are aimed at encouraging public authorities to adopt a **proactive** approach, **looking beyond** what they are already required to do under the anti-discrimination provisions of the DDA 1995 (see paragraphs 5.1 – 5.5).
- 3.2 The disability duties, like the duties under Section 75, adopt a **‘mainstreaming’** approach; so that consideration of the need to promote positive attitudes towards disabled people and encourage their participation in public life is incorporated into all policies, at all levels and at all stages by those involved in public policy decision making and becomes central to public policy decision-making.

What does ‘due regard’ mean?

- 3.3 ‘Due regard’ means that public authorities must take the need to promote positive attitudes towards disabled people and encourage participation by disabled people in public life **into account** when carrying out their functions relating to Northern Ireland.
- 3.4 ‘Functions’ is the term used to describe the activities of public authorities and includes a public authority’s powers and duties. The disability duties will be more relevant to some functions than others. Public authorities should however take care when assessing relevance, as many areas of their functioning may not immediately appear to be relevant to the disability duties.
- 3.5 **Greater consideration** should be given in relation to functions or policies that have the **most effect** on disabled people. Where changing a function or proposed policy would lead to significant benefits to disabled people, as regards their participation in public life or the promotion of positive attitudes, the need for such a change will carry added weight when balanced against other considerations.

- 3.6 Public authorities must not only have due regard to the disability duties when making decisions about the future but also to tackle the consequences of decisions in the past which may have failed to give due regard to those duties.
- 3.7 They are required to consider the effect of their policies, or likely effect of their proposed policies, on the participation of disabled people in public life and the promotion of positive attitudes towards disabled people.

In particular they should consider, as regards both existing and proposed policies, whether:

- the policy will encourage disabled people to participate in public life or promote positive attitudes towards disabled people; and whether
 - there is an **opportunity to better promote** positive attitudes towards disabled people or encourage the participation of disabled people in public life.
- 3.8 A public authority must have due regard to the need to **change** the policy (in circumstances where the policy does not promote positive attitudes towards disabled people or encourage the participation of disabled people in public life) or **bring forward new policies** which **better promote** such positive attitudes or encourage such participation.
- 3.9 As regards the development of new policies, the disability duties should be considered during the **initial stages** of the development of the policy rather than at the end of the policy development process.

Example

A public authority runs training courses for the general public aimed at developing the skills and knowledge needed for public life positions. It makes reasonable adjustments, so as to allow disabled people to apply for and fully participate in the course.

As a result of its duty to consider steps to encourage the participation of disabled people in public life, it proactively takes measures (in partnership with other organisations across the various sectors) to raise awareness amongst disabled people of the courses and the support that is available to disabled participants, as well as other steps to encourage disabled people to participate in the courses.

It also takes measures aimed at building capacity within the disability sector, so that organisations within this sector can take steps to assist disabled people apply for and participate in public life positions. These measures are set out in its disability action plan.

- 3.10 It should be noted that there is **no requirement** on public authorities under the DDA 1995, to assess or consult on the likely impact of their policies or proposed policies, to monitor adverse impact or publish the results of such assessments, as regards the promotion of positive attitudes or encouraging the participation of disabled people in public life.
- 3.11 In accordance with the arrangements set out in their equality schemes, public authorities are required to assess and consult on the likely impact of their policies or proposed policies and monitor adverse impact etc. in relation to the disability statutory duty under Section 75. If a public authority proposes to change its policies (as in the example above), as a result of implementing the disability duties, this proposed policy must be screened etc. in accordance with its equality scheme.
- 3.12 Many public authorities will have already screened their existing policies in relation to their impact on disabled people as a result of their obligations under Section 75. The Commission recommends that when preparing its disability action plan and deciding on priority action measures, an authority considers the effect of their existing policies on the promotion of positive attitudes towards disabled people and encouraging their participation in public life.

Preparation of a disability action plan

- 3.13 Public authorities are required to produce a disability action plan showing how they propose to fulfil the disability duties. The plan **must** conform as regards form and content to these guidelines. The plan must contain certain key elements including an outline of the action measures which public authorities intend to take, the timescale over which these measures are to be implemented, performance indicators or targets and details of how the public authority intends to publish the plan.

Submission of the disability action plan to the Equality Commission

- 3.14 Public authorities are required to submit their disability action plan to the Equality Commission. For public authorities subject to the disability duties as of 1 January 2007, the disability action plan must be submitted to the Commission by **30 June 2007**.
- 3.15 Public authorities who subsequently become designated for the purposes of Section 75 (and therefore subject to the disability duties) after 1 January 2007, must submit their disability action plans to the Commission **within 6 months** of the **date of establishment** of the authority **unless** they are requested by the Commission to submit the plan at a later date. In the latter circumstances, they must submit the plan to the Commission within 6 months of the date of the Commission's request.

Before submitting the plan to the Equality Commission, it is recommended that public authorities **consult** on their draft plans. They should aim to allow a period of at least **2 months** for the consultation process.

- 3.16 The Equality Commission will liaise with the public authority in relation to its disability action plan following its submission to the Commission. Unlike equality schemes, disability action plans **do not** have to be approved by the Commission. Public authorities must however, if requested by the Commission to do so, revise their disability action plans and submit the revised plan to the Commission. The Commission is also required to report to the Assembly in circumstances where a submitted revised plan fails to comply with the guidelines contained in this guide.

3.17 In particular, public authorities **will be asked to revise** their plans (or revised plans) in the following circumstances:-

1. Where the plan does not contain:-
 - a) an **introductory statement** as per the requirements in paragraph 4.7;
 - b) an outline of appropriate and effective **action measures** which the authority proposes to take to promote positive attitudes towards disabled people and encourage their participation in public life (see Chapter 5). (An outline of action measures to provide training and guidance to employees and office holders on the disability equality legislation and disability awareness, **must** be included).
 - c) an outline of the **timescale** for the implementation of these measures (see paragraph 4.22);
 - d) meaningful outcome focused **performance indicators or targets** (see paragraph 4.24); and
 - e) details of how the plan will be **published** (see paragraph 4.26).
2. Where it is evident from the plan that a public authority has not given **sufficient consideration** to the need to include effective and appropriate measures and that the plan shows a **lack of commitment** to fulfilling the disability duties.

3.18 It should be noted that the Commission **recommends** that a disability action plan should also contain a brief outline of the previous measures taken by an authority (first action plan only) (see paragraphs 4.8 – 4.9).

It also **recommends** that a commitment to consulting with disabled people when implementing and reviewing their plans, is included in the introductory statement to the authority's plan.

As disability action plans do not have to be formally approved by the Equality Commission, public authorities should proceed with the implementation of their disability action plans in accordance with the timescale indicated therein, once the plan has been submitted to the Commission.

3.19 There is no requirement to carry out an equality impact assessment (EQIA) in relation to the disability action plan before its submission to the Equality Commission. However, if a public authority proposes to change its policies as a result of implementing the disability duties, this proposed policy **must** be screened in accordance with the arrangements set out in its equality scheme.

Consultation on plans

3.20 The Commission **recommends** that public authorities as a matter of good practice, consult on their draft disability action plans before submitting them to the Commission and that public authorities allow a period of at least **two months** for the consultation period.

In addition to consulting with disabled people when drawing up their disability action plans, the Commission recommends that public authorities consult with disabled people when implementing and reviewing their plans. A public authority should aim to ensure **ongoing dialogue** between itself and disabled people as regards the implementation and review of its plan.

Why is it important to consult with disabled people?

3.21 The Commission's recommendation that public authorities consult with disabled people when drafting, implementing and reviewing their plans, reflects the fact that disabled people can assist public authorities in:

- identifying barriers they face in participating in public life in general and specifically any barriers they have encountered in relation to their dealings with the public authority in question;
- identifying circumstances in the past in which the public authority has not promoted positive attitudes towards disabled people and identifying opportunities in the future for the public authority to promote such attitudes;
- setting priorities and identifying solutions as regards the taking of remedial action; and
- monitoring and reviewing the effectiveness of measures taken.

3.22 Consultation between public authorities and disabled people should be viewed as a two-way process. It is an opportunity for disabled people to provide feedback in a constructive manner on how public authorities can best implement and are implementing the disability

duties. It also enables public authorities to use this feedback to improve how they meet their obligations.

Importantly, by consulting, public authorities are also providing disabled people with an opportunity to participate in public life; by enabling disabled people to contribute to public policy decision making or decisions relating to the way in which they carried out their functions.

How should public authorities consult with disabled people?

Targeted consultation

- 3.23 The consultation should be targeted at those who are affected by the plan. This may vary depending on the nature of the plan; for example, the plan may impact on disabled members of the public, disabled employees, disabled children and young people, disabled customers and/or service users (or a combination of the same). When consulting, public authorities should have regard to the seven Guiding Principles on consultation as set out in the Section 75 Guide (see pages 57-59).
- 3.24 Many public authorities, as a result of implementing their equality schemes, will already have set up practices and procedures for effectively consulting with disabled people.

In many cases it will be appropriate when consulting, for an authority to involve representative groups of disabled people. A list of disability representative groups is provided in Appendix D – please note this list is not exhaustive. The representative groups listed in Appendix D can assist public authorities in identifying other groups which they can consult with. It may also be appropriate to create and support a specialised forum of disabled people where none exists. The creation of such a forum is also a means of encouraging disabled people to participate in public life.

However, public authorities should bear in mind that many disabled people do not identify themselves as being disabled or belong to a particular disability organisation or representative group. Depending on the size of the public authority and its range of functions, it may be appropriate for it to commission research in the community, to secure the views of a wide range of disabled people. Representative disability groups (as well as other organisations), may be able to assist with or provide such research.

- 3.25 When consulting, it is important to consider the full diversity of disabled people – in terms of the type of impairment, as well as other dimensions such as race, age, gender, sexual orientation and religious belief.
- 3.26 The draft and final disability action plan should be placed on the public authority's website (where one exists) and the user's attention should be effectively drawn to the consultation process. Public authorities should ensure that their websites are accessible (see Appendix D for further information on accessible websites).

Ensure appropriate methods are used

- 3.27 Public authorities, when consulting should ensure that appropriate measures are taken to ensure the full participation by disabled people in the consultation process. Different disabled people have different needs. For example, when holding meetings, public authorities should consider the time of day, the appropriateness of the venue and in particular whether it can be accessed by disabled people, how the meeting is run, the use of appropriate language and whether a signer is necessary. Public authorities should recognise and in good faith meet access related costs and any costs associated with ongoing communication and collaboration with disabled people.
- 3.28 Consideration should be given as to whether face to face meetings, small group meetings, focus groups, discussion papers with the opportunity to comment in writing, questionnaires or internet discussions are best.
- 3.29 Specific consideration should be given to how best to communicate the draft plan and other information to disabled children and young people and those with learning disabilities. Public authorities should give consideration to consultation approaches targeted to different age bandings of disabled children and young people, that are proportionate to the age and maturity of the child. The Equality Commission will publish guidance for public authorities on consulting with children and young people during 2007.
- 3.30 The disability duties are aimed at encouraging the participation of disabled people in public life, and measures can include involving disabled people in public policy decision making and decisions relating to the way the public authority delivers its services and carries out its functions. When considering requests for alternative formats, public authorities should note that by providing the draft disability action plan

in alternative formats, they are assisting disabled people in responding to the consultation exercise (and therefore encouraging them to contribute public policy decision making).

- 3.31 It is therefore important that accessible language and formats are used in order to ensure that there are no barriers to the consultation process and that as wide a range of disabled people as possible can participate.
- 3.32 Due to the nature of the plan, public authorities should anticipate requests for the plan and/or draft plan in alternative formats, for example, in Braille, on computer disc, on audio cassette, in large print or an easy read version, and should ensure that measures and systems are in place so that they can respond quickly to such requests. Public authorities should anticipate the requirements of disabled people and the reasonable adjustments that they may have to make. Commitments relating to the provision of alternative formats as set out in an authority's equality scheme, should be complied with.

The Commission recommends that where possible, a number of public authorities (for example, authorities within the same sector, such as local government, education or health) should consolidate their consultation exercises so that there is no duplication of effort on the part of the authorities or the disability sector.

Ensure consultation is meaningful

- 3.33 It is important that the process of consultation with disabled people is not viewed as or becomes a paper exercise that is considered to have little meaningful value. If carried out in an appropriate and well structured manner, it can be of substantial benefit both to the public authority and disabled people.

Public authorities should encourage disabled people to feedback in a constructive manner in circumstances where a disabled person considers that a public authority has not promoted positive attitudes towards disabled people or encouraged disabled people to participate in public life.

- 3.34 By consulting with disabled people and ensuring that their disability action plan is published widely, public authorities are informing disabled people (and the public at large) of its commitment to implementing the disability duties. This helps ensure public confidence

that public authorities are pro-actively taking measures in response to these duties.

When should public authorities consult on their draft disability action plans?

3.35 The Commission **recommends** that consultation with disabled people on the draft disability action plans should begin as early as possible. Public authorities should allow sufficient time for consultees to respond and for public authorities to amend their draft disability action plans to reflect the views of respondees.

The Commission recommends that public authorities should aim to allow a period of **at least 2 months** for the consultation process.

Annual Report

3.36 Public authorities **must** complete an annual progress report on the implementation of their plan and forward this report to the Equality Commission.

3.37 The report should contain a **brief** summary of:

- the steps it has taken to fulfil its disability action plan;
- the degree to which the public authority has implemented these measures within the timescale stated in the plan;
- the degree to which the public authority has met performance indicators and/or targets; and
- the degree to which the measures taken by the public authority have been effective.

3.38 A public authority may over the 12 month period have taken additional steps to promote positive attitudes towards disabled people and encourage their participation in public life **which were not outlined** in its disability action plan. It is recommended that such measures are also included in the authority's annual report as well as any substantial changes made to the action plan.

3.39 This report should form part of the authority's annual report to the Equality Commission on the implementation of its equality scheme. Depending on the date the annual report on the equality scheme must be completed by, the annual report of the **first** disability action plan may be for a period of less than 12 months.

3.40 A copy of the annual report should be available on the public authority's website (where one exists). Making this information available will inform the authority's employees and the wider public of its progress as regards implementing the disability duties.

Five yearly review

3.41 Public authorities **must** also carry out a five yearly review of their disability action plans and forward a report of this review to the Equality Commission. A public authority must, if requested to do so by the Commission, submit a revised disability action plan to the Commission following the carrying out of that review.

If a public authority has submitted to the Commission more than one disability action plan during the five year review period, the five year review should encompass a review of **all** plans submitted during this period.

3.42 Under the DDA 1995, public authorities are required to review their disability action plans at the same time as they carry out their five yearly review in relation to their equality schemes.

Depending on the date by which the five year review of a public authority's equality scheme must be completed, the review of the **first** disability action plan may be for a period of less than five years - if it is to coincide with the five yearly review of the authority's equality scheme. All subsequent five yearly reviews of the plan will then coincide with the five yearly review of the equality scheme.

Example:

A public authority is due to carry out its five year review of its equality scheme by 1 April 2009. At 1 April 2009, its disability action plan will only be in existence for one year and 9 months. (ie 30 June 2007 – 1 April 2009). Its first five year review, therefore, covers a period of less than five years (ie 1 year 9 months). All subsequent reviews cover a five year period.

3.43 When carrying out their review, public authorities should assess what the disability action plan has achieved; what remains to be done; how to build on success and how to meet the challenges identified.

3.44 A copy of the review report should be made available on the public authority's website (where one exists).

Designated UK-wide Government departments

3.45 Certain public authorities have functions both in Northern Ireland and Great Britain (GB). All public authorities in GB (bar certain exceptions) are under a general duty to promote disability equality which includes the requirement to have due regard to the need to promote positive attitudes towards disabled people and encourage the participation by disabled people in public life. The general duty came into force in GB on 4 December 2006.

3.46 Certain public authorities in GB are also subject to specific disability duties. These specific duties require a public authority to develop a Disability Equality Scheme, which must include an action plan. The action plan sets out the key actions which an authority intends to take to promote disability equality; including measures to promote positive attitudes towards disabled people and encourage the participation by disabled people in public life. Public authorities in GB subject to the specific duties (bar certain educational establishments) must publish their Equality Schemes by 4 December 2006. Public authorities are required to consult with and involve disabled people in the development of the Disability Equality Scheme.

Public authorities subject to the specific duties, are under an obligation to review their Disability Equality Schemes every three years. They must publish a report on the implementation of their action plans on an annual basis.

3.47 The Disability Rights Commission (DRC) have issued two Codes of Practice (one which applies to England and Wales, the other which applies to Scotland) which give a detailed explanation of the general and specific duties. These Codes can be downloaded from the DRC website (www.drc-gb.org).

3.48 Designated UK-wide Government departments (for example, HM Revenue and Customs) are subject to the disability duties (as regards their functions in Northern Ireland) and must submit disability action plans to the Equality Commission in accordance with the timescale set out in paragraphs 3.14 – 3.15.

3.49 The disability action plan should solely relate to how the public authority intends to fulfil the disability duties in relation to its functions in Northern Ireland. Unlike the action plan contained within the public

authority's Disability Equality Scheme which covers all the elements of the general GB duty to promote disability equality, the disability action plan should only contain those elements which relate to the promotion of positive attitudes and to encouraging the participation by disabled people in public life.

- 3.50 It is also recommended that designated UK-wide Government departments with functions in Northern Ireland consult on their draft disability action plans in accordance with the guidance contained in this Guide; and consult with disabled people in Northern Ireland when implementing, monitoring and reviewing their disability action plans.
- 3.51 These authorities must complete an annual progress report on the implementation of their plan and forward this report to the Equality Commission. This report should form part of the authority's annual report to the Equality Commission on the implementation of its equality scheme.
- 3.52 They must also carry out a five year review of their disability action plans and forward a report of this review to the Equality Commission. The public authority must, if requested to do so by the Commission, submit a revised disability action plan following the carrying out of that review to the Commission.

They are required to review their disability action plans at the same time as they carry out their five yearly review in relation to their Section 75 equality schemes.

What mechanisms do public authorities need to put in place in order to ensure that the duties are effectively implemented?

- 3.53 There are important mechanisms which public authorities should put in place in order to ensure the successful compliance with the disability duties.

Commitment

- 3.54 The successful implementation of the disability duties by public authorities requires strong leadership and commitment. Senior management and governing bodies need to take visible ownership of the disability duties; for example, by requiring reports on their implementation and ensuring the effective communication of the disability action plan and its importance to staff.

Leadership and commitment should also be shown by ensuring the allocation of all necessary resources (in terms of people, time and money) in order to effectively implement the disability duties. There should also be a clear commitment to ensuring that effective internal arrangements (including training on the duties) are in place to ensure the duties are effectively complied with. Public authorities should ensure that employees are equipped with the necessary skills for carrying out their jobs with due regard to the disability duties.

In addition, public authorities should demonstrate this commitment by ensuring that, as with its duties under Section 75, objectives and targets relating to the disability duties are built into corporate and annual operating plans, where appropriate.

Communication

- 3.55 It is important that all staff and office holders are made aware of the disability duties, the public authority's disability action plan and the authority's commitment to the successful implementation of the plan. This could be done, for example, by way of briefings, at induction of new staff/office holders, at staff/office holders training sessions, alerting staff/office holders to information on the internet and/or intranet, articles in staff and sectoral magazines and newsletters.

A public authority should also take all available opportunities to externally reiterate its commitment to the disability duties and its disability action plan.

Focusing on effective change

- 3.56 It is important when implementing the disability duties that public authorities focus on outcomes. When drawing up disability action plans and considering possible measures, they should focus on what impact the action measure will have on disabled people as regards the promotion of positive attitudes and their participation in public life and how effective their actions will be in achieving tangible outcomes for disabled people.

Partnerships

- 3.57 The effective implementation of the disability duties may also involve public authorities working together (both with public authorities within and outside their sector) and with others (for example, the voluntary and community sector). Authorities may need to look beyond the

specific services which they provide, to working with other authorities and/or organisations, and developing appropriate partnerships in order to implement the duties.

Procurement

- 3.58 Public authorities enter into large numbers of contracts with public, private and voluntary sector organisations for goods, works, services and staff. As procurement is a function of authorities, they will need to ensure that in procuring services etc, they comply with all aspects of the DDA 1995, including the disability duties.

Public procurement also needs to be carried out in compliance with; Section 75 and other public sector statutory duties; government procurement policy, within the framework of the EU Directives and other procurement rules; and be compliant with other parts of the anti-discrimination legislation.

- 3.59 At the time of publication of this Guide, the Equality Commission is developing separate guidance on equality issues in procurement (with specific reference to Public Private Partnerships and Private Finance Initiatives), which sets out how to comply with Section 75 requirements on promoting equality, and also how to deliver government policy on promoting sustainability. The principles in this guidance will equally apply to the disability duties.

Provision of disability equality generally

- 3.60 It is important for public authorities to recognise that in order to effectively implement the disability duties they must also be providing disability equality in the way in which they employ disabled people, carry out their functions, and deliver services to disabled people. For example, measures taken to promote positive attitudes amongst employees and office-holders towards disabled people will be most effective in an environment in which a public authority already promotes, and is seen to promote, equality of opportunity for disabled people.

Chapter 4 - Form and Content of a Disability Action Plan

KEY POINTS

1. The disability action plan must include the following key elements:
 - An **introductory statement** as per the requirements set out in paragraph 4.7.
 - An outline of appropriate and effective **action measures**, including measures to provide training and guidance to employees and office holders on the disability equality legislation and disability awareness.
 - An outline of the **timescale** for the implementation of those action measures.
 - Meaningful outcome focused **performance indicators** or targets.
 - Details of how the disability action plan will be **published**.
2. The Commission recommends that a disability action plan should also contain an outline of the previous measures taken (first action plan only).
3. The DDA 1995 does not specifically state the time period for a disability action plan. It is open to each authority to decide the time period for its plan, though the Commission recommends that plans are not for a period of less than a year.
4. A public authority can revise its plan at any time. Public authorities must inform the Equality Commission of all changes to its disability action plan.

Chapter 4 - Form and Content of a Disability Action Plan

Introduction

- 4.1 This Chapter provides guidelines as to the form and content of a disability action plan. Under section 49B(4)(a) of the DDA 1995, disability action plans (or revised plans) must 'conform to any guidelines as to form and content which are issued by the Commission with the approval of the Office' (namely OFMDFM). The guidelines contained within this Chapter have been approved by OFMDFM and consequently all disability action plans (or revised plans) submitted to the Commission must conform to these guidelines.

What form must a disability action plan take?

- 4.2 The plan must be in written form and be both comprehensible and accessible. As set out in paragraph 3.32, due to the nature of the plan, public authorities should anticipate requests for the plan (and draft plan) in alternative formats, for example, in Braille, on computer disc, on audio cassette, in large print or an easy read version and should ensure that measures and systems are in place so that they can respond quickly to such requests. Public authorities should anticipate the requirements of a disabled person and the reasonable adjustments that they may have to make. Commitments relating to the provision of alternative formats as set out in an authority's equality scheme, should be complied with.

As set out in paragraph 3.26, the disability action plan (and draft plan) must be placed on the public authority's website (where one exists). Public authorities should ensure that their websites are accessible (See Appendix D for further information on accessible websites).

What are the key elements of a disability action plan?

- 4.3 A disability action plan must show how a public authority proposes to fulfil the disability duties in relation to its functions.

Each public authority will have a different disability action plan. Each plan will reflect the specific remit and functions of the particular public authority. It will also reflect the fact that public authorities are at different stages as regards the identification and implementation of action measures. For example, at the time of drafting their disability

action plans, some public authorities may have already identified specific changes to policies which they intend to take in order to encourage the participation of disabled people in public life or promote positive attitudes. Other public authorities may first need to carry out a review of certain policies before deciding on specific measures.

- 4.4 A **broad template** of a disability action plan (or revised plan) is included in Appendix A. The template should be tailored to reflect the individual circumstances of the authority in question.
- 4.5 The disability action plan (or revised plan) **must** include the following key elements:
1. An **introductory statement** as per the requirements set out in paragraph 4.7).
 2. An outline of appropriate and effective **action measures** showing how it proposes to promote positive attitudes towards disabled people and encourage their participation in public life (see Chapter 5). An outline of measures to provide training and guidance to employees and office holders on the disability equality legislation and disability awareness, **must** be included (see paragraphs 5.7 – 5.16).
 3. An outline of the **timescale** for the implementation of those action measures (see paragraph 4.22).
 4. Meaningful outcome focused **performance indicators or targets** (see paragraph 4.24).
 5. Details of how the disability action plan will be **published** (see paragraph 4.26).
- 4.6 In addition, the Commission **recommends** that a disability action plan also contains an outline of the previous measures taken (first action plan only) (see paragraphs 4.8 – 4.9), as well as a commitment to consulting with disabled people when implementing and reviewing their plans (see paragraph 4.7).

Introductory Statement

4.7 The disability action plan **must** contain an introductory statement which includes the following:

- An outline of the disability duties and the purpose of the disability action plan.
- A **brief summary** of the range of functions of the public authority.
- An outline of the range of public life positions over which the authority has responsibility for (for example, government public appointments etc), where applicable.
- The public authority's commitment to the disability duties and to the effective implementation of the disability action plan. This should include a commitment to the allocation of all necessary resources (in terms of people, time and money) and to ensuring that appropriate internal arrangements are in place, in order to ensure that the duties are complied with and the plan effectively implemented. There should also be a commitment to the effective communication of the plan to staff and to providing all necessary training and guidance for staff on the disability duties and on implementing the plan. The statement of commitment should be signed by the Minister and Permanent Secretary in the case of Government departments or the Chair and the Chief Executive in the case of other public authorities.
- An outline of the internal arrangements put in place for dealing with and reporting on the disability action plan and a point of contact for people who may seek further information in relation to the plan and/or the disability duties.
- The public authority's commitment to submitting an annual report on the implementation of its disability action plan to the Equality Commission.
- The public authority's commitment to carrying out a five yearly review of its disability action plan.

The Commission **recommends** that a commitment to consulting with disabled people when implementing and reviewing their plans, is also included in the introductory statement to the authority's plan.

Suggested wording for the introductory statement is outlined in the Commission's **disability action plan template** (see Appendix A).

Previous measures taken

- 4.8 As a result of their duties under Section 75, many public authorities have already taken, or are in the process of taking, measures to promote positive attitudes towards disabled people and encourage their participation in public life. Carrying out a mapping exercise of previous measures and outlining these measures in the first action plan, 'sets the scene' for the future planned actions of the public authority and informs both the public authority and the general public of measures already taken.
- 4.9 The measures which a public authority includes in its plan will reflect the degree to which it has already taken actions to promote positive attitudes towards disabled people and encourage their participation in public life. It is therefore **recommended** that previous measures taken are set out in the authority's **first** disability action plan. They should be set out **briefly** and in **bullet form**. It should be noted that these measures must be included in the first disability action plan **only**.

Action measures

- 4.10 The disability action plan **must** indicate what action measures a public authority intends to take to promote positive attitudes towards disabled people and encourage their participation in public life. An outline of measures to provide training and guidance to employees and office holders on the disability equality legislation and disability awareness, **must** also be included.
- 4.11 A public authority must therefore determine, in light of its own particular remit and range of functions which measures are most **effective** and **appropriate** in encouraging disabled people to participate in public life and in promoting positive attitudes towards disabled people, and include those in its disability action plan (see Chapter 5).

Each public authority will therefore have different proposed measures in their action plans; as measures will reflect the unique remit and

functions of the authority as well as the fact that public authorities are at different stages as regards the identification and implementation of action measures.

- 4.12 Outlined in Chapter 5 are a range of ways in which public authorities can encourage disabled people to participate in public life and promote the attitudes towards disabled people. Chapter 5 does not contain a comprehensive list of all measures that can be taken but is designed to illustrate some practical steps which public authorities can take. It should be stressed that some of the suggested measures may not be appropriate for a public authority to implement due to type of functions it carries out or the way in which it operates.

It should be noted that public authorities may decide to take measures which they had not originally indicated in their disability action plans. As set out in paragraphs 4.27- 4.28, an authority can revise its plan at any time.

Prioritise action measures

- 4.13 When considering what actions measures to take, it is recommended that public authorities first examine their range of functions **and** policies that emanate from those functions. Many public authorities will have already compiled a list of their functions and included this in their equality schemes.
- 4.14 Public authorities should consider the effect (or likely effect) of those functions and policies on disabled people (as regards the promotion of positive attitudes and encouraging their participation in public life). **Greater consideration** should be given to those functions or related policies which have the **most effect** on disabled people. Where changing a function or policy (or proposed policy) would lead to significant benefits to disabled people, the need for such a change will carry added weight when balanced against other considerations. This is not a question merely of the numbers of disabled people affected but of the degree of impact.
- 4.15 Public authorities may have already collected monitoring or other information which can assist them in considering the effect of their policies on disabled people (as regards the promotion of positive attitudes and encouraging their participation in public life). For example, they may be aware from monitoring statistics that there is an under-representation of disabled people in a certain type of public life

position within their remit, or through research or consultation with disabled people, be aware of proactive steps they could take.

In particular they should consider, as regards both existing and proposed policies, whether:

- the policy will encourage disabled people to participate in public life or promote positive attitudes towards disabled people; and whether
- there is an **opportunity to better promote** positive attitudes towards disabled people or encourage the participation of disabled people in public life.

4.16 A public authority should then outline in its plan what action measures it intends to **prioritise** as regards those functions or policies.

The action measures will, to a certain degree, depend on what measures it has already taken to promote positive attitudes towards disabled people or encourage their participation in public life, as regards that function or related policies - though it should be stressed that although measures may already have been taken, this is a **continuing duty** on public authorities to consider what **further** steps it can take and what **additional opportunities** there are to promote positive attitudes towards disabled people and encourage their participation in public life.

As noted above, measures to provide training and guidance to employees and office holders on the disability equality legislation and disability awareness, **must** be included in the plan (see paragraphs 5.7 – 5.16).

Participation in public life

4.17 In particular, in order to encourage the participation of disabled people in public life, public authorities should consider what appropriate and effective measures it can take as regards:-

- encouraging disabled people to apply for and participate in public life positions;
- creating opportunities for involving disabled people in public life; and

- encouraging others to promote the participation of disabled people in public life.

Positive attitudes

4.18 Public authorities should also, in order to promote positive attitudes towards disabled people, consider what appropriate and effective measures it can take as regards:-

- its external and internal communication policies, practices and procedures;
- promoting positive attitudes amongst employees, officeholders and others;
- other proactive measures including awareness raising campaigns and events which encourage the positive interaction between disabled and non-disabled people; and
- encouraging others to promote positive attitudes towards disabled people.

A fuller explanation of the above measures is given in Chapter 5.

Example

A public authority reviews its range of relevant functions and decides to prioritise its functions and related policies relating to the way in which it recruits and selects people for public life positions. In its plan it commits to carrying out a review within a specific timescale of its policies relating to the recruitment, selection and participation of people for public life positions, in order to assess what steps it can take to encourage the participation of disabled people in public life.

Another public authority also decides to prioritise its functions and related policies relating to the way in which it recruits and selects people for public life positions. It has already reviewed these policies and assessed what steps it proposes to take to encourage the participation of disabled people in public life and is in the process of implementing changes. In its plan it outlines the steps it intends to take and the implementation timescale.

Example

A public authority reviews its range of functions and related policies and decides to prioritise its functions relating to the public's access to the voting system. It indicates in its disability action plan that it will review within a specified timescale its policies relating to the public's access to the voting system in order to assess the steps it can take to ensure that disabled people have greater access to the voting system.

Example

A public authority reviews its range of functions and decides to prioritise its policies and procedures relating to the way in which disabled people are involved in public policy decision making and decisions relating to the way in which it carries out its functions. In its plan it commits to carrying out a review within a specified timescale of those policies and procedures in order to identify steps it can take to ensure disabled people have a greater involvement in that decision making process.

Authorities will not be able to fully review all aspects of their operations in a single disability action plan. Rather this is a **continuing duty** on authorities which should prioritise for review those aspects of their functions which have most relevance to disabled people.

Partnership working

- 4.19 A public authority when developing its plan and implementing measures should consider whether it can work in partnership with other public authorities (both with authorities within the same sector e.g. health/education/local government or outside their particular sector) and/or with other organisations (for example, from the voluntary/community sector – including disability organisations).

Partnership work, if carrying out effectively, can help pool resources and maximise the impact of measures.

Focus on Outcomes

- 4.20 When considering what measures to include a public authority should always keep in mind the impact that the measure will have on disabled people and the degree to which the measure will be effective. The focus should therefore be on outcome (in terms of the extent it will

promote positive attitudes towards disabled people and encourage their participation in public life) rather than outputs.

Public authorities should consider how they will assess the effectiveness of the action measure and what information they need to collect in order to make that assessment (see Chapter 6).

Resources and responsibility for action measures

- 4.21 It is recommended that public authorities consider what resources (in terms of staff, time, money) they need to allocate in order to implement the action measure within the specified timescale. They should also decide who will be responsible within the public authority for the implementation of each measure. There should be clear lines of accountability and ownership of the specific actions.

Timescale for implementing action measures

- 4.22 Public authorities **must** indicate in their disability action plans the implementation timescale for their action measures. They should also clearly indicate which measures they intend to prioritise.

Timescales for the implementation of measures should be both **challenging and realistic**. They should take into account the priorities of disabled people (as elicited through consultation), as well as the public authority's own strategic priorities (including business milestones and major projects to be implemented over the timescale of the action plan), and other priorities it may have set in relation to implementing other equality initiatives. For example, public authorities will have committed to implement particular equality initiatives in their equality schemes and a range of public authorities are taking forward disability equality initiatives as part of implementing their disability employment equality plans.

Many actions in a plan (such as measures to train employees and office holders on the disability equality legislation and disability awareness) may be of an ongoing nature and continue into subsequent plans.

Timescale of disability action plan

- 4.23 The DDA 1995 does not specifically state the time period for a disability action plan. It does indicate that plans must be reviewed five yearly. It is open to each authority to decide the time period for its plan.

Authorities may find it useful to ensure that the time period for the plan co-incides with its corporate planning cycle (for example, a three or four year plan). It is recommended that a plan should not be for a period of **less than a year** (unless an authority is due to be in existence for less than a year), as there is a requirement to report on and review progress of the plan on an annual basis. It should be noted that the Commission recommends (as set out in paragraph 3.20) that public authorities consult on **each** disability action plan before submitting it to the Commission.

Performance Indicators

4.24 Public authorities **must** include in their disability action plans meaningful and outcome focused performance indicators or targets.

Setting specific targets can play a useful role in ensuring that due regard is paid to the disability duties. They also ensure that the implementation of the disability duties becomes outcome focused. Clear targets can encourage staff at all organisational levels within a public authority to take ownership and allocate resources appropriately. A disability action plan should be aimed at making practical improvements to equality for disabled people (as regards their participation in public life and the promotion of positive attitudes) and therefore specific outcomes must be clearly identified, where it is appropriate to do so.

It is important to recognise that there may not be a separate performance indicator or target for every individual action measure; as a range of action measures can contribute to the same performance indicator or target.

Example

A government department with responsibility for a large number of public appointments sets a target in its disability action plan to increase the number of public appointments held by disabled people by a certain percentage over a 12 month period. The government department already monitors the number of disabled people who apply for and are appointed to public appointments. Its target is based on its starting point and the nature of appointments it makes and the number of vacancies likely to arise during the twelve month period.

Example

The Institution of Further and Higher Education referred to in the example at paragraph 5.70, sets performance indicators in its disability action plan. In addition to specific targets on individual measures (such as in the example below), it also includes the following wider indicators:-

- An increase in the display of positive attitudes towards disabled students amongst its student population over a specific period. It monitors progress towards this target by carrying out staff and student surveys, exit interviews and a survey of the experiences of disabled students.
- A reduction in feedback/complaints regarding the display of negative attitudes, including complaints of disability harassment over a specific period. It monitors progress towards this target by monitoring the number of feedback/complaints made over that period.

Example

A public authority sets a specific target in its disability action plan to provide effective disability equality training and guidance (to include disability awareness and the promotion of positive attitudes) to all of its employees within a specified timescale. It also sets a target for the provision of similar training for all office holders within a specified timescale. The target reflects the fact that such training will take place on a phased basis.

The disability action plan indicates that the public authority will prioritise the provision of such training to recruitment and selection panel members, personnel staff, managers and supervisory staff, front line staff and staff who play a key role in the employment/retention of disabled people. The plan also reflects the public authority's commitment to ensure that such training is relevant, regular and up-to-date.

Details of how the disability action plan is to be published

4.25 Public authorities **must** include in their disability action plans details of how the plan is to be published. The disability action plan must be published widely. This may include press releases, and direct mail shots to disability organisations or representative groups. Public authorities must consider how they can best use their resources to ensure maximum coverage. A copy of the disability action plan should be available on the public authority's website (where one exists). Public authorities should ensure that their websites are accessible to disabled people. (See Appendix D for further information on accessible websites).

Can a public authority revise the content of its disability action plan?

4.26 The legislation states that a public authority can revise its plan at any time. For example, a public authority may decide to add new measures to its plan, as a result of identifying further opportunities to promote positive attitudes towards disabled people or encourage their participation in public life.

4.27 Conversely, a public authority may become aware that (for example, due to unforeseen circumstances), it is unreasonable or impracticable for it to implement certain measures committed to in its plan, or to meet the specified timetable for taking a measure. It may also decide that there are other more appropriate and effective alternative measures that it can take than those measures already outlined in the plan. In circumstances where an authority decides not to take a particular measure(s) committed to in its plan, it is important that the authority considers whether it can take **other alternative** measures to promote positive attitudes towards disabled people or encourage the participation of disabled people in public life.

4.28 Public authorities **must** inform the Equality Commission of **all** changes to its disability action plan (both minor and substantial). If a public authority proposes to make a substantial revision of its plan, the Commission may, depending on the nature and extent of the changes, recommend that the public authority consults on its revised plan.

A public authority should make it clear on its website (where one exists) that it has made substantial changes to its plan and this should also be referred to in its annual report to the Commission.

Chapter 5 - Measures to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life.

KEY POINTS

1. The disability duties require public authorities to consider what **proactive** steps they can take to promote positive attitudes towards disabled people and encourage their participation in public life, and encourage authorities to **look beyond** what they are **already required to do** under the anti-discrimination provisions of the DDA 1995.
2. An outline of measures to provide training and guidance to employees and office holders on the disability equality legislation and disability awareness, **must** be included in the plan.
3. In order to encourage the participation of disabled people in public life, public authorities should consider what **appropriate** and **effective** measures it can take as regards:-
 - encouraging disabled people to apply for and participate in public life positions;
 - creating opportunities for involving disabled people in public life; and
 - encouraging others to promote the participation of disabled people in public life.
4. Public authorities should also, in order to promote positive attitudes towards disabled people, consider what **appropriate** and **effective** measures it can take as regards:-
 - its external and internal communication policies, practices and procedures;
 - promoting positive attitudes amongst employees, officeholders and others;
 - other proactive measures including awareness raising campaigns and events which encourage the positive interaction between disabled and non-disabled people; and
 - encouraging others to promote positive attitudes towards disabled people.

Chapter 5 - Measures to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life.

Existing duties under the DDA 1995

- 5.1 When considering measures, public authorities should note that, under the anti-discrimination provisions of the DDA 1995, they are **already** under a duty, as employers and service providers, not to unlawfully discriminate or harass disabled people when, for example, recruiting or employing, or when delivering services. They are also under a **duty to make reasonable adjustments** in relation to employees, service users and others.
- 5.2 Following the introduction of proposed changes to the DDA 1995 (see paragraph 1.6), it will be unlawful for a public authority to discriminate against a disabled person in carrying out its functions. 'Functions' describes the activities of public authorities and will cover all functions; unless it is a function that is exempt under the DDA 1995. Broadly speaking, these provisions relating to public authorities' functions (when introduced) will be 'residual' provisions, in that they will apply where other provisions in the DDA 1995 do not.
- 5.3 Under the new provisions, there will be a duty on a public authority, when carrying out its functions, not to treat disabled people less favourably **and** a duty to make reasonable adjustments. The duty to make reasonable adjustments is an anticipatory one, owed to disabled people at large, and relates to three areas; practices, policies and procedures, auxiliary aids and services and physical features.
- 5.4 The duty to make reasonable adjustments means that in relation to a public authority's functions, a public authority may need to exercise a function in a different way for a disabled person or to supplement the carrying out of a function with an additional act (such as providing documents in alternative formats or providing an interpreter for a deaf person).
- 5.5 The duty applies broadly where disabled people, are by reason of their disability, disadvantaged in some way by, or in relation to, the carrying out of a function. It should also be noted that this duty will apply to certain 'voluntary' post holders which fall outside the scope of the employment provisions of the DDA 1995 (see paragraph 5.41).

- 5.6 When considering measures, public authorities should bear in mind that the disability duties require public authorities to consider what **proactive steps** they can take as regards the promotion of positive attitudes towards disabled people and to encourage their participation in public life, and are aimed at encouraging public authorities to **look beyond** what they are **already required to do** under the DDA 1995.

Training and Guidance for staff and office holders

- 5.7 A measure which a public authority **must** outline in its disability action plan is the steps it intends to take in order to ensure that training and guidance on the disability equality legislation and disability awareness is provided to staff **and** office holders.
- 5.8 Such training and guidance is vital for a variety of reasons. Firstly it is an outward sign of the authority's commitment to the disability duties. It is also a means by which an authority can ensure that its staff and office holders are aware of the disability duties and its disability action plan. Crucially, the provision of such training and guidance is an example of a measure that both promotes positive attitudes towards disabled people and by removing attitudinal barriers to appointing disabled people, can encourage participation of disabled people in public life.
- 5.9 Public authorities, as employers, will already be aware that the *Disability Code of Practice on Employment and Occupation* (see paragraph 1.7) recommends that 'employers should provide training and guidance for all employees to ensure they understand their duties and responsibilities under the DDA 1995 and the organisation's equal opportunities policies and procedures. It indicates that 'the training and guidance should also include disability awareness and etiquette training'.
- 5.10 When providing such training and guidance, public authorities should take this opportunity to promote positive attitudes towards disabled people as well as communicating its commitment to the disability duties and the effective implementation of its disability action plan. They should also ensure that employees understand their duties and responsibilities under the disability duties (in addition to other duties under the DDA 1995), as well understanding their role in implementing the plan.

The Commission recommends that public authorities should provide such training and guidance to **office holders** in addition to employees.

- 5.11 It is recommended that the training and guidance for employees and office holders considers issues/topics such as an explanation of the barriers faced by disabled people in society (including attitudinal and environmental factors); an understanding of the social model of disability; addresses issues around the use of appropriate language; and challenges stereotypes/misconceptions about disabled people.
- 5.12 It is particularly important that members of recruitment and selection panels, personnel staff, managers and supervisors, front line staff as well as other employees involved in taking measures to recruit/retain disabled people, receive training and guidance on the disability equality legislation and disability awareness (to include the promotion of positive attitudes). The training should also ensure that such staff are familiar with the provisions of the *Disability Code of Practice on Employment & Occupation* (see paragraph 1.7).
- 5.13 For example, negative attitudes by members of recruitment and selection panels regarding a disabled applicant's capabilities, can result in the applicant being rejected for the public life position. Negative attitudes can also discourage employees of a public authority from being proactive as regards the taking of positive action measures to recruit disabled employees to public life positions.
- 5.14 It is also important that public authorities take steps to ensure, through the provision of training and guidance, that front line staff when dealing with disabled customers, service users, or members of the public, display positive attitudes towards the disabled person.
- 5.15 As stressed earlier (see paragraphs 3.53 – 3.54), the successful implementation of the disability duties requires strong leadership and commitment which must flow from the highest level throughout the whole organisation. It is therefore essential that senior management receive such training and guidance as they will have responsibility and accountability as regards compliance with the disability duties and driving forward the authority's disability action plan.
- 5.16 Public authorities should ensure that all training and guidance is regular, relevant and up-to-date. It is recognised that such training and guidance will be implemented on a phased basis and may form part of wider equality training.

Example

In addition to building positive attitudes towards disabled people into the ethos of its organisation, a public authority promotes positive attitudes towards disabled people when providing training and guidance on the disability equality legislation and disability awareness to employees and office holders.

Other measures

- 5.17 Outlined below are some other measures which a public authority can take to promote positive attitudes towards disabled people and encourage their participation in public life. It should be stressed that this is not a comprehensive list and some of the suggested measures may not be appropriate for a public authority to implement due to the type of functions it carries out or the way in which it operates. In addition there may be other measures, not listed below, which it is appropriate for a public authority to take.
- 5.18 **It is the responsibility of each public authority to determine, in light of its own particular remit, range of functions and the type of structures, processes and procedures it has in place, which measures are most effective and appropriate in encouraging disabled people to participate in public life and in promoting positive attitudes towards disabled people.**

Encouraging participation in public life

- 5.19 The requirement to give due regard to the need to encourage participation in public life requires that steps are taken to ensure that the formal structures of governing and advisory bodies are accessible to and inclusive of disabled people.
- 5.20 This is both an end in itself and will promote equality for disabled people more generally. Not only will disabled people bring valuable experience to public life, but such participation will encourage positive attitudes towards disabled people and in some cases can lead to a reduction in harassment (for example, where disabled people are properly integrated into community associations). Those authorities that succeed in promoting the participation of disabled people in their governing or advisory bodies are also likely to find that this assists them in becoming a disability aware organisation.

- 5.21 'Public life' is a very broad term. It incorporates government public appointments; the House of Lords; public bodies' focus or working groups; community associations or fora; community police liaison committees; neighbourhood watch committees; citizens panels; Local Strategic Partnerships; school Boards of Governors; school councils; youth councils; user groups for a service provided by a public authority. This is not an exhaustive list. For ease of reference such opportunities/ appointments are referred to as 'public life positions'.
- 5.22 It should be noted that public government appointments include a wide range of appointments including appointments to all executive non-departmental public bodies and health and personal social services bodies. For example, it covers the appointment of chairpersons or members to the Equality Commission, Human Rights Commission, and District Policing Partnerships.
- 5.23 Participation in public life can therefore include the way in which disabled people contribute to or are involved in public policy decision making or decisions relating to the way in which public authorities deliver their services or carry out their functions. This involvement can be at all levels, including community, regional and national.
- 5.24 It can also include the way in which disabled people can participate in political life; for example, as elected representatives, members of political fora or in terms of their access to the voting system. It can in addition, include their participation as a litigant (in terms of access to the law and Courts), judge (of all kinds) and as a juror.
- 5.25 A public authority may have a wide range of public life positions within its remit. For example, it may be responsible for a number of government public appointments as well as co-ordinating a variety of user groups and/or working groups.

How can a public authority encourage disabled people to participate in public life?

- 5.26 Outlined below are examples of steps which a public authority can take to encourage disabled people to participate in public life. It can:
- a) Take measures to:
 - encourage disabled people to apply for/participate in public life positions;
 - remove barriers to the selection process; and
 - remove barriers to their participation in the public life position.

- b) Create opportunities for involving disabled people in public life.
- c) Take measures which encourage others to promote the participation of disabled people in public life.

5.27 Each of these steps is considered below. When considering measures, public authorities should bear in mind the nature of the public life position. Steps listed below as examples, may apply to some positions but not others. For example, steps taken to raise awareness of an opportunity on a community forum may differ from those taken to raise awareness of a government public appointment. Measures should therefore be **tailored to the type of position** in question.

Measures relating to the recruitment, selection and participation of disabled people in public life

5.28 Outlined below are various measures which public authorities can take relating to the recruitment, selection and participation of disabled people in public life positions.

It is important that public authorities review the whole process - from the way in which they recruit and select for the public life position, right through to the disabled person's experience in the public life position, including the training and support they receive.

Encouraging disabled people to apply for/participate in public life positions

5.29 There are a number of suggested ways in which public authorities can encourage disabled people to apply for/participate in positions in public life.

Ensuring that disabled people are made aware of the public life positions.

5.30 One key step which public authorities can take to encourage participation in public life is to ensure that disabled people are made aware of public life positions; for example, opportunities to participate on particular fora, associations, groups or apply for public appointments etc. This is will involve reviewing where and how a public authority currently advertises public life positions and considering alternative ways of ensuring that disabled people are made aware of the positions.

5.31 When considering measures public authorities should also remember that not all disabled people identify themselves as disabled or are a member of a disability organisation or group. Public authorities should consider steps to raise awareness of positions amongst the general public. This can also benefit the public authority as it ensures that persons selected for public life positions are drawn from the widest possible pool.

5.32 Outlined below are examples of some measures which a public authority can take to raise awareness of public life positions. This is not a comprehensive list.

- Contacting local disability groups or representative bodies and liaising with them as regards the most effective way of raising awareness amongst their disabled members.
- Advertising positions widely in the press.
- Advertising in magazines or other publications which are targeted at disabled people.
- Advertising vacancies on a public authority's website and raising awareness of their existence on the website (and where appropriate, incorporating links to other relevant websites). Public authorities should ensure that its website is fully accessible to disabled people (where one exists). For further information on accessible websites see Appendix D.
- Working in partnership with other public authorities in order to maximise existing methods of raising awareness amongst disabled people and to explore new initiatives.
- Targeting opportunities/vacancies at older people, as many disabled people are over the state pension age.
- Organising information sessions or open days aimed at disabled people.

Removing barriers to disabled people applying for public life positions

5.33 Public authorities can also consider taking steps to remove barriers to disabled people applying for public life positions. Measures can include the following:

- Reviewing the documentation relating to the public life position (for example, advert, application form etc.) in terms of language and /or images used, format etc. in order to identify barriers to disabled people applying.

- Taking steps to dispel any perceptions that may exist amongst disabled people that they will be judged negatively by selection panel members because they have a disability or that a public life position is open to a 'certain type' of individual.
- Providing information outlining the support that is available to disabled applicants during the various stages of the recruitment process, as well as after they are appointed. For example, public authorities could make it clear to applicants that reasonable travel expenses will be paid.
- Ensuring and making it clear to disabled applicants, that all documentation relating to the public life position, is available on request in accessible formats.
- Accepting applications from disabled people in accessible formats.

Measures to improve confidence levels

5.34 Many disabled people lack the confidence to apply for public life positions. One means of encouraging disabled people to participate in public life positions, is for a public authority to take measures to increase the confidence of potential disabled applicants. Measures could include, for example:

- a shadowing scheme;
- a temporary placement;
- raising awareness of the contribution of current/previous disabled members;
- detailing the provision of induction, support or training once appointed;
- supporting capacity building measures as regards the voluntary/community sector; for example giving financial or other support to disability groups or others in relation to the provision of training for disabled people in interviewing or other relevant skills;
- providing constructive feedback to unsuccessful disabled applicants; and
- running training courses aimed at developing the skills and knowledge needed for public life positions and taking measures to encourage disabled people to participate on those courses.

Including a welcoming statement

5.35 One measure a public authority can take when advertising vacancies for public life positions is to include a welcoming statement in the advertisement indicating that it particularly welcomes applications from disabled people.

Removing barriers to the selection process

5.36 Another key way in which public authorities can encourage disabled people to participate in public life, is by removing barriers that they may face to the selection process. In other words, public authorities can ensure that the framework is in place for them to successfully participate in the selection process. Measures can include:

- Examining the selection criteria for public life positions in order to ensure that a public authority does not make it more difficult for disabled people to succeed in applications for such posts.

If selection criteria such as skills or experience are used, the level and type of each criterion should reflect the specific requirements of the post in question. Where applicable, public authorities should also consider short listing a disabled person for interview automatically if s/he demonstrates that s/he meets the minimum criteria for the position. They should also be aware when deciding on selection criteria, that not all disabled people follow a traditional career path in the labour market.

- Where appropriate, offering the position only to a disabled person.

Example:

A public authority becomes aware that disabled people are under-represented in a particular user group. It decides to reserve two places in the group for disabled people only. Through contact with various disability groups, organisations and others, it ensures that disabled people are made aware of the vacancies. It makes it clear in its advertisement and documentation on the vacancy that two places on the group have been reserved for disabled people only.

Removing barriers to their participation in public life positions

5.37 Public authorities can also take steps to remove barriers to the participation of disabled people in the public life position. This involves considering a wide range of issues including the following:

- the level of induction, support and development provided;
- adjustments made as regards the way in which meetings are run or information is provided;
- the accessibility of the premises in which meetings take place and the location of those premises in terms of accessibility; and
- the provision of accessible transport or the reimbursement of reasonable travel expenses.

How can a public authority identify which measures it should take?

5.38 A public authority can identify the specific measures it should take by carrying out an audit of its existing policies, practices and procedures relating to the recruitment, selection and participation of disabled people in the public life position.

5.39 If a disability action plan has a range of different types of public life positions, then it should review the policies, practices and procedures relating to **each type** of public life position. Where appropriate, a public authority should indicate in its disability action plan its commitment to carrying out such an audit. If at the time of developing its disability action plan, a public authority has already undertaken such a review and is in the process of implementing change, such action and the timescale for implementation of the changes should be indicated in its disability action plan.

5.40 Public authorities can also identify barriers, by considering existing research into barriers carried out by other relevant organisations, including other public authorities and/or disability organisations. They can also commission qualitative research either alone or in partnership with another public authority in order to inform them of the specific barriers faced by disabled people.

Example

A public authority is responsible for a number of appointments to a variety of public life positions. It lists in its disability action plan the range of public life positions over which it has responsibility. It indicates in its plan that it will review its policies, practices and procedures as regards the recruitment, selection and participation of disabled people in each type of public life position in order to identify ways of:

- encouraging disabled people to apply for and participate in public life positions;
- removing barriers to the selection process; and
- removing barriers to their participation in public life positions.

It states the timescale for the review of **each type** of public life position.

How do the disability duties (as regards encouraging the participation of disabled people in public life) relate to other rights under the DDA 1995?

Voluntary post-holders

- 5.41 Many posts in public life (for example, positions on community fora) are carried out by volunteers (though reasonable expenses may be paid), who are not covered by the employment and occupation provisions (Part 2) of the DDA 1995.
- 5.42 However, following the introduction of proposed changes to the DDA 1995 (see paragraph 1.6), it will be unlawful for a public authority to discriminate against a disabled person in carrying out its functions. This duty as regards a public authority's functions will apply to certain 'voluntary' post holders which fall outside the scope of the employment provisions of the DDA 1995. The provisions cover persons whilst they are in post and also their appointment to a post.
- 5.43 Broadly, where the relevant employment provisions do not apply to the office or post in question, and the office or post is not specifically excluded, the public authority function provisions under the DDA 1995 will apply to the functions of the authority in relation to a candidate or prospective candidate for certain public offices. These provisions will also apply to the functions of the authority in relation to the elected office holder once s/he holds office.

This means, for example, that the functions of a education authority in organising the election of parent school governors will be covered by this part of the DDA 1995, once the amending provisions come into force.

Other office holders

- 5.44 Appointment to certain offices or posts (such as chairpersons, or members of non-departmental public bodies), are covered by Part 2 of the DDA 1995. Such posts are only covered where an individual provides services personally under the direction of another person in return for remuneration, or the post is one to which appointments are made by or on the recommendation of the Government or subject to its approval. (This protection does not extend to the holders of political office).
- 5.45 In relation to disabled people who apply for such an office or post, the DDA 1995 makes it unlawful to discriminate against that person:
- in the arrangements which are made to determine who should be offered the appointment;
 - in the terms on which the appointment is offered; or
 - by refusing to offer him or her, the appointment.
- 5.46 It is also unlawful to discriminate against a disabled person where the appointment is made on the Government's recommendation (or subject to its approval):
- in the arrangements made to determine who should be recommended or approved; or
 - in making or refusing to make a recommendation or in giving or refusing to give approval.
- 5.47 The DDA 1995 already requires reasonable adjustments to be made for disabled people holding relevant offices or posts or seeking such appointments.

Example

A selection process is carried out to appoint the chair of a public health body. The best candidate is found to be a disabled person with a progressive condition who is not able to work full-time because of her disability. Whoever makes or recommends the appointment should consider whether it would be a reasonable adjustment to appoint the disabled person on a job-share or part-time basis.

- 5.48 A more detailed overview of the protection afforded to office holders under the DDA 1995, can be found in the *Disability Code of Practice on Employment and Occupation*, which is available free of charge from the Equality Commission or can be downloaded from the Equality Commission's website (www.equalityni.org).

Recruitment of disabled employees

- 5.49 Government departments and other large public authorities should be mindful of the fact that they are themselves major employers and should be working towards becoming exemplar employers of disabled people. In line with their responsibilities under Section 75 to promote equality of opportunity for disabled people and the good practice recommendations in the *Disability Code of Practice on Employment and Occupation*, public authorities should be proactively considering steps to encourage disabled applicants to apply for employment opportunities. They should also be working towards increasing the proportion of disabled employees at all levels within the organisation.

For further information and advice on good practice as regards the recruitment and retention of disabled employees, see the *Disability Code of Practice on Employment and Occupation*.

Creating opportunities for involving disabled people in public life.

- 5.50 Public authorities should consider creative and innovative ways of effectively involving disabled people in public life. It may for example, be appropriate to form a disability working group, which includes members who are disabled, in order to help the public authority identify barriers to equality of opportunity for disabled people (including barriers to implementing the disability duties) and decide on remedial action.

Example

A public authority, in partnership with other public authorities, forms a disability working group in order to involve disabled people and representative groups in public policy decision making relating to the way in which it carries out its functions in Northern Ireland and delivers its services. It puts measures in place in order to ensure the effectiveness of the working group.

Example

A public authority undertakes in its disability action plan to review its existing policies, practices and procedures as regards involving disabled people in public policy decision making and decisions relating to the delivery of services. This involves examining the adequacy of existing structures in place for enabling disabled people to provide constructive input into public policy and the way in which a public authority carries out its services to the public.

- 5.51 Public authorities need to ensure that the involvement of disabled people in public policy decision making and the delivery of services is not tokenistic. They also need to put measures in place to ensure the effectiveness of any structures or fora created.
- 5.52 It is important for public authorities to recognise that disabled people, through their skills, knowledge and experience, can contribute to policy decision making across a wide range of areas; not solely in the area of disability equality.

Non-Executive Directors

- 5.53 Public authorities should also consider appointing non-executive directors with broad community and customer-focused experience, as this may make the posts more open to disabled applicants.

Measures which encourage others to promote the participation of disabled people in public life.

- 5.54 Depending on their remit and range of functions, public authorities should consider whether it can take measures to encourage other organisations or bodies, for example, private employers, voluntary/community organisations, political parties etc., to promote

the participation of disabled people in public life. These measures may be taken by a public authority alone or in partnership with, for example, other public authorities and/or organisations from the voluntary/community sector.

Example

An authority through its work with local councillors, encourages political parties to take measures that will encourage disabled people to stand for election as councillors for the political party in question. It also runs disability equality and awareness training for councillors.

Review of Public Administration

5.55 The Equality Commission is aware that the disability duties are being implemented in Northern Ireland at a time of considerable change for the public sector as a result of the implementation of the Review of Public Administration (RPA). As a result of the RPA, there will be changes to the functions of some public authorities, as well as the creation of new authorities. New public life positions may be created as a result of the RPA. It is vital that any proposed structures and their implementation are developed in full compliance with the disability duties. The RPA is also an opportunity to put structures in place so as to ensure that disabled people are more effectively involved in public life.

5.56 Public authorities should also consider what effective and appropriate measures they can take to encourage disabled people to participate in decisions relating to the RPA.

Positive attitudes

5.57 The DDA 1995 also requires public authorities to have due regard to the need to promote positive attitudes towards disabled people. This part of the disability duties, as with the other part, contributes to the overall goal of promoting equality of opportunity. Whilst many people have positive attitudes towards disabled people, some express pity, fear, and lack of respect and/or contempt. Demeaning stereotypes, or simply the absence of any representation in public images, can both have very negative impacts on disabled people's lives.

5.58 Prejudicial attitudes against disabled people can take a variety of forms, for example, an assumption that disabled people cannot talk or think for themselves or other negative assumptions about their abilities. Such attitudes are not only hurtful, but can lead to discrimination and place unnecessary restrictions on disabled people. Such attitudes can for example, result in disabled people being rejected, avoided or subjected to verbal attacks, jokes, bullying or harassment. It can also result in their being rejected for jobs. Such behaviour in turn affects the everyday lives of disabled people.

When exercising their functions, public authorities will need to consider what they can do to eliminate ignorance and prejudice in the wider community and in the workplace.

How can a public authority encourage positive attitudes towards disabled people?

5.59 Outlined below are suggested measures which a public authority can take in order to promote positive attitudes toward disabled people. These are as follows:

- Review of a public authority's external and internal communication policies, practices and procedures in order to ensure that disabled people are portrayed in a positive role.
- Measures to promote positive attitudes amongst employees, office holders and others.
- Measures which encourage others to adopt / promote positive attitudes towards disabled people.

Review of a public authority's external and internal communication policies, practices and procedures.

5.60 One measure which a public authority can take is to review its internal and external communication policies, practices and procedures in order to ensure disabled people are depicted in a positive role.

For example, public authorities should ensure that leaflets, booklets, guidance, videos / DVDs and other promotional, educational, or information materials which they produce, portray disabled people in a positive role. Public authorities should also review their websites (where one exists) to ensure that disabled people are portrayed positively.

Example

A government department runs an advertising campaign aimed at the general public, which includes television adverts, articles in publications, advertising on billboards etc. It ensures that positive images of disabled people are included in the campaign and, where appropriate, signers are visibly used.

- 5.61 Public authorities should note that, depending on the nature of the advertising campaign, promotional material etc, it may not always be appropriate to include images of disabled people. However, where it is appropriate, public authorities should have regard to the need to include images of disabled people in their promotional material etc. and ensure that such images portray disabled people in a positive role. They should also ensure that the inclusion of images of disabled people is not tokenistic.
- 5.62 Communication practices extend beyond advertising campaigns. Public authorities should examine how disabled people are depicted in other forms of communications (both internal and external); for example, press releases, public reports, media interviews, staff updates/newsletters, etc.).

Example

When closing services, public authorities should explain why reorganisation is necessary and not allow the impression to be given that such closure is as a result of having to comply with the anti-discrimination provisions of the DDA 1995 (the DDA 1995 would not require the closure of any service, as the duty to make adjustments requires only what is 'reasonable').

Measures to promote positive attitudes amongst employees, office holders and others.

- 5.63 The requirement to have due regard to the need to promote positive attitudes towards disabled people is not limited to a public authority's external policies, practices and procedures. It also involves considering steps to promote positive attitudes amongst employees, office holders, and others (such as the wider public, customers, service users, students etc.) towards disabled people.

Employees and office holders

- 5.64 Public authorities should consider what steps it can take to promote positive attitudes towards disabled people amongst its employees and office holders. Outlined below are a range of measures which public authorities should consider and include in their disability action plans, where appropriate.

Recognise and value the contribution of disabled employees and office-holders

- 5.65 One step that public authorities can take is to ensure that employees are made aware of the importance of recognising and valuing the contribution that disabled employees and office-holders can make to the working of the public authority. It is important to recognise and value the contribution of disabled employees as a means of challenging prejudicial attitudes which may exist about the abilities of disabled employees and office holders. Disabled employees and office holders through their knowledge, experience and expertise, can make a valuable contribution in many ways to the work of a public authority. Employees, particularly management, should by their words and actions recognise and value that contribution.

- 5.66 Public authorities should recognise the contribution that disabled employees and office holders can make in helping them identify barriers to the promotion of disability equality in the workplace. They can also assist them in identifying remedial action which a public authority can take to address such barriers.

- 5.67 Positive attitudes towards disabled people will be particularly promoted if an organisation ensures that the views and contributions of disabled staff are valued. Public authorities should consider ways in which they can most effectively involve disabled employees and office holders in the way in which they implement their policies, practices and procedures, both internal and external.

Establish a complaint/feedback mechanism

- 5.68 Public authorities can ensure that there is a complaint or feedback mechanism in place whereby a disabled employee, customer or service-user can raise concerns in circumstances where an employee has not displayed positive attitudes towards him/her. Public authorities should ensure that through effective management procedures they take appropriate measures to deal with employees who do not display positive attitudes towards disabled people.

5.69 If an employee's behaviour amounts to discriminatory conduct, then the disabled employee or customer may have the right to bring a discrimination complaint under the DDA 1995. All disability discrimination complaints should be dealt with promptly, seriously, sympathetically, confidentially and effectively.

Public authorities should ensure that complaints and feedback procedures are accessible to disabled employees and/or customers.

Other measures to promote positive attitudes

5.70 Public authorities can also take additional measures to promote positive attitudes amongst customers, clients, members of the wider public etc. Such measures can include awareness raising campaigns, as well as events which encourage positive interaction between disabled and non-disabled people.

Example

A local mental health charity proposes establishing supported accommodation in the community for mental health service users who are leaving hospital. The local health authority works with the charity to ensure that local residents are aware of the nature of the accommodation and the need for it, as well as the positive benefits to the community that the residents will bring. The local authority is acting proactively to promote positive attitudes towards, and to prevent potential harassment of, the mental health service users.

Example

An Institution of Further and Higher Education is aware, as a result of the findings of student surveys and of feedback/complaints from disabled students, that disabled students are being subjected to disability harassment. In addition to taking measures to eliminate such harassment (for example, ensuring equal opportunity and harassment policies and procedures are in place and taking effective steps to investigate complaints), it decides to take proactive measures to promote positive attitudes towards disabled students. These measures, together with their implementation timescale, are outlined in its disability action plan.

Such measures include the following;

- the provision of disability equality training (to include the promotion of positive attitudes) for students and staff;
- an awareness raising campaign aimed at promoting positive attitudes towards disabled students;
- a review of its internal and external communications to ensure that disabled students are portrayed positively; a review of its complaint/feedback mechanism for students;
- the organisation of a series of events which encourage positive interaction between disabled and non-disabled students.

Some of these measures are taken in partnership with trade/student unions and/or organisations in the voluntary/community sector.

Measures which encourage others to adopt/promote positive attitudes towards disabled people.

5.71 Public authorities should consider, depending on their nature and range of functions, whether they can take measures which encourage other organisations, such as voluntary/community groups, trade unions, private employers etc. to promote positive attitudes towards disabled people. Such schemes or initiatives may solely relate to the promotion of positive attitudes or take the form of a wider initiative to encourage disability equality with the promotion of positive attitudes being part of that initiative.

Example

A public authority in partnership with other relevant organisations, undertakes an awareness-raising campaign aimed at public and private sector employers and employers in the voluntary/community sector, with the objective of improving their attitudes towards employing disabled people and to improve their understanding of the capabilities of disabled people. They also encourage such employers to provide disability equality and awareness training to their employees and office holders.

Example

A public authority in conjunction with a disability representative organisation operates an award scheme which recognises the contribution made by public and private sector employers and employers in the voluntary/community sector to promote disability equality, including promoting positive attitudes towards disabled people.

KEY POINTS

1. Monitoring, evaluating and reviewing measures taken (as outlined in the public authority's disability action plan) and the degree to which their actions have been effective in achieving **tangible outcomes**, is key to the successful implementation of the disability duties.
2. Monitoring information can assist public authorities:-
 - monitor whether or not the measures indicated in their disability action plan have been implemented within the agreed timescale;
 - monitor whether performance indicators or targets have been met; and
 - review the effectiveness of the actions taken and evaluate the success of individual measures, particularly as regards achieving tangible outcomes for disabled people.
3. Public authorities can monitor the **effectiveness** of measures taken to **encourage the participation** of disabled people in public life in a number of ways including:-
 - reviewing monitoring information on applicants; and
 - qualitative research.
4. Public authorities can monitor the **effectiveness** of measures taken to **promote positive attitudes** towards disabled people by for example:-
 - conducting a wide scale survey of public attitudes;
 - conducting a staff survey on attitudes;
 - carrying out exit interviews;
 - monitoring complaints of discrimination; and
 - monitoring the provision of disability equality/awareness training.

Chapter 6 - Monitoring and reviewing progress

Why is it important to collect monitoring information?

- 6.1 Key to the successful implementation of the disability duties, is the monitoring, evaluation and review of the action measures taken (as outlined in the public authority's disability action plan) and the degree to which their actions have been effective in achieving tangible outcomes.
- 6.2 The Equality Commission recommends that public authorities consider what information it requires (and therefore what monitoring practices and procedures it needs to put in place) in order to:
- monitor whether or not the action measures indicated in its disability action plan have been implemented within the agreed timescale;
 - monitor whether performance indicators or targets have been met;
 - review the effectiveness of the actions taken and evaluate the success of individual measures, particularly as regards achieving tangible outcomes for disabled people.
- 6.3 This information is important as public authorities will need it in order to complete their annual report and five yearly review. For the purposes of their five year review, in addition to assessing what the disability action plan has achieved, public authorities also need to consider what remains to be done, how to build on success and how to meet the challenges identified. It should be noted that there is no requirement under the DDA 1995 to monitor adverse impact in relation to the disability duties.
- 6.4 This monitoring information will enable public authorities to ascertain the degree to which their actions have contributed to the promotion of positive attitudes towards disabled people and the participation of disabled people in public life. Such information will in turn assist the Commission in evaluating the degree to which the disability duties are effective and in carrying out its effectiveness review of the disability duties in 2010.

- 6.5 Many public authorities will already have systems and procedures in place for collecting relevant data in the area of disability. Public authorities should review and adapt existing systems to ensure that data relevant to monitoring the effectiveness of the disability duties is collected.

Where appropriate, public authorities are encouraged to share data and co-operate when considering existing data or commissioning new data. This co-operation is vital in order to maximise resources and minimise duplication of effort.

- 6.6 Whilst the collection of relevant data is important, public authorities should be aware that particular issues of sensitivity and confidentiality may arise in relation to disability. When seeking information in this area, public authorities should reassure potential respondents that any information given will be treated, subject to statutory requirements, in the strictest confidence. Public authorities should implement appropriate safeguards in order to ensure such confidentiality. They should also take steps to reassure disabled people why the information is required and how it will be used.

All monitoring forms or methods should be accessible as regards their format, content and implementation.

- 6.7 When collecting and analysing monitoring information, it is important to consider the full diversity of disabled people; in terms of different forms of impairment (e.g. learning disability, mobility or visual impairments, hidden disabilities etc.) as well as other dimensions such as race, age, gender, sexual orientation and religious belief. Public authorities should be aware of the potential for inequality to extend between categories and, where appropriate, monitoring procedures should be able to identify multiple disadvantage; for example barriers faced by disabled women.

- 6.8 Public authorities should also ensure that staff receive appropriate training on data collection and in particular are aware of the reasons for the collection of the data and the use to which it will be put.

How should monitoring information be collected?

- 6.9 There are two main methods by which data can be collected; quantitative and qualitative monitoring. **Quantitative** monitoring is concerned with the systematic collection of statistical data. It includes, for example, collecting data in order to calculate or estimate numbers or percentages.

Qualitative monitoring involves directly consulting with those being monitored in order to obtain in depth their views, attitudes and opinions and to identify concerns and issues. In order to monitor the effectiveness of the measures they implement, public authorities, as outlined in more detail below, will need to employ both qualitative and quantitative monitoring methods.

- 6.10 It is important to stress that regardless of the method used to monitor, there should always be a reason behind the collection of monitoring data. There is little benefit in collecting data relating to the disability duties if, once collected, it is not properly analysed and used to monitor progress or review the effectiveness of the measures taken. Therefore a public authority, when considering carrying out monitoring, should always keep in mind the reason why they are collecting the information and the use it intends to make of the data it collects.
- 6.11 The Equality Commission, at the time of publication of this guide, is drafting guidance for public authorities on monitoring. This guidance will include further advice for public authorities on how to monitor in relation to the disability duties.

Monitoring progress and the effectiveness of measures taken

- 6.12 Outlined below are some suggested ways in which public authorities can monitor progress and the effectiveness of the measures they have taken to encourage participation in public life and promote positive attitudes. This is not a comprehensive list.

Some of the suggested monitoring measures may not be appropriate for a public authority to implement due to its nature or range of functions. In addition, there may be other monitoring measures, not listed below, which it is appropriate for a public authority to take.

It is the responsibility of each public authority to determine the most appropriate means of monitoring the effectiveness of the action measures outlined in its plan.

Monitoring the effectiveness of measures taken to encourage participation by disabled people in public life

- 6.13 Outlined below are some examples of ways in which public authorities can monitor progress and the effectiveness of measures taken to encourage participation by disabled people in public life.

- **Review of monitoring information on applicants**

By issuing monitoring questionnaires, a public authority can, for example, obtain information on the number of disabled people currently in public life positions as well as the number applying for, being short listed and being selected for new positions. Public authorities should ensure that such questionnaires monitor the different types of disabilities as well as across the range of other equality grounds.

- **Qualitative research**

6.14 Through qualitative research techniques, public authorities can gain insight into whether measures taken have been effective in encouraging disabled people to participate in public life positions or whether barriers still exist. For example, a public authority could commission research to explore the attitudes of disabled applicants for public life posts at various stages of the recruitment and selection procedures, in order to examine why they decided either to proceed or withdraw from the process.

Similarly public authorities could conduct research into the experiences of disabled people who already participate in public life positions in order to help identify the range of barriers which they face as well as providing feedback on whether measures taken have been effective.

Monitoring the effectiveness of measures taken to promote positive attitudes

6.15 Outlined below are examples of some ways in which public authorities can monitor the effectiveness of measures taken to promote positive attitudes towards disabled people.

- **Wide scale surveys on public attitudes**

6.16 Depending on its functions and remit, it may be appropriate for a public authority to undertake or commission, either individually or in partnership with another public authority, wide scale research into public attitudes towards disabled people in Northern Ireland. This research can be used to establish baseline data or as a means of assessing whether or not public attitudes towards disabled people have improved.

It may also be relevant for a public authority to consider existing research on public attitudes towards disabled people in Northern Ireland.⁷

Such research could include a review of the experiences of disabled people and in particular their perception of public attitudes towards them. The scale of the research will reflect the remit and functions of the public authority. For example, a health authority may conduct research into attitudes towards disabled people within the health sector.

- **Internal staff survey on attitudes**

6.17 One way of auditing staff attitudes to disabled people is to conduct a staff attitudinal survey. The first survey will provide baseline data and subsequent surveys will give an indication of whether staff attitudes towards disabled people have improved.

- **Exit interviews**

6.18 Exit interviews are a form of qualitative monitoring and can provide a useful means of obtaining feedback both from disabled and non-disabled staff on whether or not they have encountered positive attitudes within the workplace.

- **Monitor complaints of discrimination**

6.19 Monitoring complaints (both internal and external) of disability discrimination or grievances arising out a failure to display positive attitudes towards disabled people can give an indication of staff attitudes towards disabled people.

- **Monitor the provision of disability equality/ awareness training**

6.20 In addition to ensuring that the training has taken place, public authorities can monitor that the training is effective.

⁷ For example, the Northern Ireland Statistics & Research Agency (NISRA) is currently carrying out research amongst disabled people in Northern Ireland on the prevalence of disability and their experiences and socio-economic circumstances. This research will include a consideration of how the attitudes of others affect the participation of disabled people in a range of activities, such as employment, accessing services etc. It is anticipated that the initial findings of this research will be published in early 2007 (www.nisra.gov.uk).

Example

A public authority ensures that it collects information on those members of staff and/or office holders who have received disability equality training. It also ensures that monitoring measures are put in place to assess the effectiveness of such training.

Chapter 7 - Role of the Equality Commission

KEY POINTS

1. The Equality Commission has a range of powers and duties under the DDA 1995 relating to the disability duties, including **enforcement** duties and a **duty to offer advice** to public authorities and others in connection with disability duties.
2. The Commission is required to **report** a public authority to the Assembly in a range of circumstances including where an authority has failed to submit a disability action plan or revised plan within the required timescale. If a public authority does not comply with the disability duties, its actions or failure to act can be challenged by means of a claim to the High Court for judicial review.
3. The Commission provides practical guidance and information on the disability duties and free and confidential **training and guidance** on the disability equality legislation.

Chapter 7 - Role of the Equality Commission

General powers and duties under the DDA 1995

7.1 Under the Equality (Disability, etc.) (Northern Ireland) Order 2000, the Equality Commission has statutory powers to work towards the elimination of discrimination and to promote the equalisation of opportunity for disabled people. In particular, the Equality Commission:

- keeps the DDA 1995 under review;
- provides assistance and support to disabled litigants under the DDA 1995;
- provides information and advice to anyone with rights or obligations under the DDA 1995;
- carries out formal investigations;
- prepares new or revised Codes of Practice;
- has power to arrange conciliation services in relation to disputes under Part 3 of the DDA 1995; and
- has various powers and duties in relation to the statutory equality duty under Section 75 of the Northern Ireland Act 1998.

Powers and duties relating to the disability duties

7.2 The Equality Commission has the following range of powers and duties under the DDA 1995 specifically relating to the disability duties.

Duties

7.3 The Commission has a duty to review the effectiveness of the disability duties. It is required to carry out and publish a review of the effectiveness of the disability duties by 1 January 2010. The Commission will be liaising with public authorities as part of that review process.

The Commission is also under a duty to offer advice to public authorities and others in connection with the disability duties.

Enforcement Duties

Report to the Assembly

7.4 If a public authority subject to the disability duties fails to submit a disability action plan to the Equality Commission by 30 June 2007, or if later, within 6 months of the date of the establishment of the authority, then the Commission must report that failure to the Assembly.

The Commission is also required to report the following to the Assembly:

- A failure by a public authority (who is designated for the purposes of Section 75 after 1 January 2007 and who has been requested by the Commission, following its designation, to submit a disability action plan), to submit that plan to the Equality Commission within 6 months of the date of the request.
- A failure by a public authority to submit a revised plan to the Commission within 3 months of the date of the request by the Commission for a revised plan.
- The submission of a revised plan which in the opinion of the Commission fails to comply with the guidelines contained in this Guide.

That report can contain such comments and other material as appear to the Commission to be appropriate to bring to the Assembly's attention.

Judicial Review

7.5 If a public authority does not comply with the disability duties, its actions, or failure to act, can be challenged by means of a claim to the High Court for judicial review. A claim for judicial review could be made by a person or a group of people with an interest in the matter or by the Equality Commission.

Powers

- 7.6 The Commission also has a range of powers under the DDA 1995. For example, it can:
- grant an exemption, as regards the production of a disability action plan, to a public authority entirely, or to particular functions of the authority;
 - prepare and issue guidelines and/or Codes of Practice giving practical guidance to public authorities on how to fulfil their responsibilities in relation to the disability duties;
 - request a public authority to revise its disability action plan and submit the revised plan to the Commission.

Information, advice and training

- 7.7 Information and practical guidance on the disability duties is available from the Equality Commission and the Commission would encourage public authorities to seek such information and advice when drafting, implementing, monitoring and reviewing their disability action plans. The Commission also provides free and confidential training and guidance on the disability equality legislation.

DISABILITY ACTION PLAN – TEMPLATE

Name of public authority
(insert name of public authority)

<p>1.1</p>	<p>Introduction</p> <p>Under Section 49A of the Disability Discrimination Act 1995 (DDA 1995) (as amended by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006), <i>(insert name of public authority)</i> is required when carrying out its functions to have due regard to the need to:</p> <ul style="list-style-type: none"> • promote positive attitudes towards disabled people; and • encourage participation by disabled people in public life ('the disability duties'). <p>Under Section 49B of the DDA 1995, <i>(insert name of public authority)</i> is also required to submit to the Equality Commission a disability action plan showing how it proposes to fulfill these duties in relation to its functions.</p>
<p>1.2</p>	<p>As <i>(insert as relevant – Chairman & Chief Executive)</i> of <i>(insert name of public authority)</i>, we are committed to implementing effectively the disability duties and this disability action plan. We will allocate all necessary resources (in terms of people, time and money) in order to implement effectively this plan and where appropriate, build objectives and targets relating to the disability duties into corporate and annual operating plans.</p> <p>We will also put appropriate internal arrangements in place to ensure that the disability duties are complied with and this disability action plan effectively implemented. We will ensure the effective communication of the plan to staff and to providing all necessary training and guidance for staff on the disability duties and the implementation of the plan.</p> <p>We confirm our commitment to submitting an annual report to the Equality Commission on the implementation of this plan as well as carrying out a five yearly review of this plan.</p>

	<p><i>(It is recommended that public authorities also include in their introductory statement a commitment to consulting with disabled people when implementing and reviewing their plans.)</i></p> <p>Responsibility for implementing, reviewing and evaluating this disability action plan and the point of contact within the <i>(insert name of public authority)</i> will be:-</p> <p>Name: Title: Address: Telephone number: Fax number: Email: Textphone:</p> <p>If you require this plan in an alternative format (such as in large print, in Braille, on audio cassette, easy read or on computer disc) and/or language, please contact the above person to discuss your requirements.</p>
1.3	<p>We confirm our commitment to submitting an annual progress report on the implementation of this plan to the Equality Commission and carrying out a five year review of this plan, or plans submitted to the Equality Commission over the five year review period.</p> <p>A copy of this plan, our annual progress to the Equality Commission and our five year review of this plan will be made available on our website <i>(insert name of website (where one exists) and if known, website link, as well as other details of how the plan is to be published)</i>.</p>
1.4	<p>Functions</p> <p>Outlined below are the range of functions of <i>(insert name of public authority)</i>.</p>
1.5	<p><i>(insert brief summary of range of functions)</i></p> <p>Public Life Positions</p> <p>The range of public life positions over which <i>(insert name of public authority)</i> has responsibility for, are as follows:- <i>(insert range of public life positions, where applicable)</i></p>

2.	<p>Previous Measures <i>(It is recommended this is inserted in first disability action plan only)</i></p> <p>Outlined below are the key measures which <i>(insert name of public authority)</i> has already taken to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life.</p> <p>Promoting positive attitudes towards disabled people</p> <p><i>(Insert brief details (in bullet form) of key measures which the public authority has already taken to promote positive attitudes towards disabled people).</i></p> <p>Encourage the participation of disabled people in public life</p> <p><i>(Insert brief details (in bullet form) of key measures which the public authority has already taken to encourage the participation of disabled people in public life).</i></p>
3.	<p>Action Measures</p> <p>Outlined below are the measures which we propose to take over the period <i>(insert details of the timescale of plan)</i> of this disability action plan, together with performance indicators or targets.</p>

Measures to promote positive attitudes towards disabled people and encourage the participation of disabled people in public life

Measures	Timescale Indicators/target	Performance
<p>(Measures as regards the provision of training and guidance for staff and office holders on the disability equality legislation and disability awareness must be included here—see paragraphs 5.7-5.16 of Guide)</p> <p>(Other effective and appropriate action measures must be included here –see Chapter 5 of Guide.)</p>	<p>(Insert here the timescale over which the action measures will be taken—see paragraph 4.22 of Guide)</p>	<p>(Performance indicators or targets must be inserted here see paragraph 4.24 of Guide)</p>

Signed by:

Chair

Chief Executive

Appendix B - List of Public Authorities

List of public authorities subject to Section 75 of the Northern Ireland Act 1998 (as at date of publication).

It should be noted that this list is likely to change as a result of organisational changes proposed under the RPA. An up-to-date list of public authorities subject to Section 75 is available from the Equality Commission's website (www.equalityni.org).

Abbeyfield (NI DEV) Society
Abode Housing Association
Agri Food and Bio sciences institute
Altnagelvin Hospitals HSS Trust
Antrim Borough Council
Antrim District Policing Partnership
Ards Borough Council
Ards District Policing Partnership
Ark Housing Association
Armagh & Dungannon HSS Trust
Armagh City and District Council
Armagh City and District Policing Partnership
Armagh College of Further Education
Arts Council for Northern Ireland
Ballymena Borough Council
Ballymena District Policing Partnership
Ballymoney Borough Council
Ballymoney District Policing Partnership
Ballynafeigh Housing Association
Banbridge District Council
Banbridge District Policing Partnership
Belfast City Council
Belfast City Hospital HSS Trust
Belfast Community Housing Association Ltd
Belfast District Policing Partnership
Belfast Education & Library Board
Belfast Harbour Commissioners
Belfast Institute of Further & Higher Education
Big Lottery Fund
BIH Housing Association
British Council Northern Ireland
British Wool Marketing Board
Broadway Housing Association
Carlingford Lough Commissioners

Carrickfergus Borough Council
Carrickfergus District Policing Partnership
Castlereagh Borough Council
Castlereagh College of Further & Higher Education
Castlereagh District Policing Partnership
Causeway HSS Trust
Causeway Institute of Further & Higher Education
Central Services Agency
Chief Electoral Officer
Choice Housing Association
Clanmil Housing Association
Clonard Housing Association
Coleraine Borough Council
Coleraine District Policing Partnership
Coleraine Harbour Commissioners
Community Relations Council
Connswater Housing Association
Consumer Council for Postal Services (Postwatch)
Cookstown District Council
Cookstown District Policing Partnership
Coral Crescent Housing Association
Corinthian Housing Association
Council for Catholic Maintained Schools
Covenanter Housing Association
Craigavon & Banbridge Community HSS Trust
Craigavon Area Hospital Group HSS Trust
Craigavon Borough Council
Craigavon District Policing Partnership
Craigowen Housing Association
Department of Culture, Arts and Leisure
Department for Employment and Learning
Department for Regional Development
Department for Social Development
Department for Culture, Media and Sport
Department of Agriculture and Rural Development
Department of Education
Department of Enterprise, Trade and Investment
Department of Finance and Personnel
Department of Health Social Services and Public Safety
Department of the Environment
Department of Trade and Industry
Derry City Council
Derry District Policing Partnership
Donacloney Housing Association
Down District Council

Down District Policing Partnership
Down Lisburn HSS Trust
Dungannon & District Housing Association
Dungannon and South Tyrone District Policing Partnership
Dungannon District Council
East Antrim Institute of Further & Higher Education
East Down Institute of Further & Higher Education
East Tyrone College of Further & Higher Education
Eastern Health & Social Services Board
Eastern Health & Social Services Council
Exports Credits Guarantee Department
Fermanagh College of Further & Higher Education
Fermanagh District Council
Fermanagh District Policing Partnership
Filor Housing Association
Fire & Rescue Service for Northern Ireland
Fisheries Conservancy Board for Northern Ireland
Flax Housing Association
Fold Housing Association
Food from Britain
Foyle HSS Trust
General Consumer Council for Northern Ireland
Gosford Housing Association
Green Park HSS Trust
Grove Housing Association
Habinteg Housing Association
Health & Safety Executive for Northern Ireland
Hearth Housing Association
HM Revenue & Customs
Home Grown Cereals Authority
Homefirst Community HSS Trust
Ilex Urban Regeneration Company Limited
Independent Assessor for Military Complaints
Information Commissioner
Intertrade Ireland
Invest Northern Ireland
Labour Relations Agency
Larne Borough Council
Larne District Policing Partnership
Limavady Borough Council
Limavady College of Further and Higher Education
Limavady District Policing Partnership
Lisburn City Council
Lisburn District Policing Partnership
Lisburn Institute of Further and Higher Education

Livestock and Meat Commission for Northern Ireland
Local Government Staff Commission for Northern Ireland
Londonderry Port & Harbour Commissioners
Loughs Agency
Magherafelt District Council
Magherafelt District Policing Partnership
MAGNI
Mater Infirmorum Hospital HSS Trust
Mental Health Commission for Northern Ireland
Moyle District Council
Moyle District Policing Partnership
National Biological Standards Board
National Endowment for Science, Technology and the Arts
Newington Housing Association
Newry & Mourne HSS Trust
Newry and Kilkeel Institute of Further and Higher Education
Newry and Mourne District Council
Newry and Mourne District Policing Partnership
Newtownabbey Borough Council
Newtownabbey District Policing Partnership
NI Co-Ownership Housing Association
NI Council for Postgraduate Medical and Dental Education
NI Medical Physics Agency
NI Transport Holding Company
North & West Belfast HSS Trust
North & West Housing Association
North Down and Ards Institute of Further and Higher Education
North Down Borough Council
North Down District Policing Partnership
North East Institute of Further and Higher Education
North Eastern Education & Library Board
North West Institute of Further and Higher Education
Northern Health & Social Services Board
Northern Health & Social Services Council
Northern Ireland Ambulance Service HSS Trust
Northern Ireland Assembly Commission
Northern Ireland Audit Office
Northern Ireland Authority for Energy Regulation
Northern Ireland Blood Transfusion Service
Northern Ireland Commissioner for Children and Young People
Northern Ireland Council for the Curriculum Examination and Assessment
Northern Ireland Court Service
Northern Ireland Film Commission
Northern Ireland Fishery Harbour Authority
Northern Ireland Guardian Ad Litem Agency

Northern Ireland Health Promotion Agency
Northern Ireland Housing Executive
Northern Ireland Human Rights Commission
Northern Ireland Legal Services Commission
Northern Ireland Local Government Officers Superannuation Committee
Northern Ireland Medical and Dental Training Agency
Northern Ireland Museums Council
Northern Ireland Office
Northern Ireland Policing Board
Northern Ireland Practice and Education Council for Nursing and Midwifery
Northern Ireland Social Care Council
Northern Ireland Tourist Board
Oaklee Housing Association
OFCOM
Office of the Civil Service Commissioners for Northern Ireland
Office of the First Minister and Deputy First Minister
Office of the Social Fund Commissioner
Omagh College of Further Education
Omagh District Council
Omagh District Policing Partnership
Open Door Housing Association
Police Ombudsman for Northern Ireland
Police Service of Northern Ireland
Postal Services Commission (Postcomm)
Presbyterian Housing Association
Probation Board for Northern Ireland
Qualifications and Curriculum Authority
Royal Group of Hospitals & Dental Hospital HSS Trust
Rural Development Council for Northern Ireland
Rural Housing Association
Safefood-Food Safety Promotion Board
Shac Housing Association
South & East Belfast HSS Trust
South Eastern Education & Library Board
South Ulster Housing Association
Southern Education & Library Board
Southern Health & Social Services Board
Southern Health & Social Services Council
Special EU Programmes
Sperrin Lakeland HSS Trust
Sports Council for Northern Ireland
St Mary's University College
St Matthew's Housing Association
Staff Commission for Education & Library Boards
Strabane District Council

Strabane District Policing Partnership
Stranmillis University College
Strategic Investment Board
The British Library
The Construction Industry Training Board
Department of the Environment
The Electoral Commission
The North-South Language Body (Foras na Gaeilge)
The Office of the Certification Officer Northern Ireland
The Open University
The Queen's University of Belfast
The Ulster Scots Agency
The Youth Council for NI
Triangle Housing Association
Trustees of the National Heritage Memorial Fund
UK Transplant (NHS)
Ulidia Housing Association
Ulster Community & Hospitals HSS Trust
Ulster Supported Employment Limited
United Hospitals HSS Trust
University of Ulster
Upper Bann Institute of Further and Higher Education
Warrenpoint Harbour Authority
Waterways Ireland
Wesley Housing Association
Western Education & Library Board
Western Health & Social Services Board
Western Health & Social Services Council
Wine Standards Branch of the Food Standards Agency
Woodvale & Shankill Housing Association

Appendix C – Definition of Disability

This appendix is included to aid understanding about who is covered by the DDA 1995 and should provide sufficient information on the definition of disability to cover the large majority of cases. The definition of disability in the Act is designed to cover only people who would generally be considered to be disabled. A Government publication ‘Guidance on matters to be taken into account in determining questions relating to the definition of disability’, is also available from The Stationery Office (see Appendix D for contact details).

When is a person disabled?

A person has a disability if s/he 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.

What about people who have recovered from a disability?

People who have had a disability within the definition are protected from discrimination even if they have since recovered.

What does ‘impairment’ cover?

It covers physical or mental impairments; this includes sensory impairments, such as those affecting sight or hearing.

Are all mental impairments covered?

The term ‘mental impairment’ is intended to cover a wide range of impairments relating to mental functioning, including what are often known as learning disabilities.

What is a ‘substantial’ adverse effect?

A substantial adverse effect is something which is more than a minor or trivial effect. The requirement that an effect must be substantial reflects the general understanding of disability as a limitation going beyond the normal differences in ability which might exist among people.

What is a 'long-term' effect?

A long-term effect of an impairment is one:

- which has lasted at least 12 months; or
- where the total period for which it lasts is likely to be at least 12 months; or
- which is likely to last for the rest of the life of the person affected.

Effects which are not long-term would therefore include loss of mobility due to a broken limb which is likely to heal within 12 months and the effects of temporary infections, from which a person would be likely to recover within 12 months.

What if the effects come and go over a period of time?

If an impairment has had a substantial adverse effect on normal day-to-day activities but that effect ceases, the substantial effect is treated as continuing if it is likely to recur; that is if it is more probable than not that the effect will recur.

What are 'normal day-to-day activities'?

They are activities which are carried out by most people on a fairly regular and frequent basis. The term is not intended to include activities which are normal only for a particular person or group of people, such as playing a musical instrument, or a sport, to a professional standard or performing a skilled or specialised task at work. However, someone who is affected in such a specialised way but is also affected in normal day-to-day activities would be covered by this part of the definition. The test of whether an impairment affects normal day-to-day activities is whether it affects one of the broad categories of capacity listed in Schedule 1 to the DDA 1995. They are:

- mobility;
- manual dexterity;
- physical co-ordination;
- continence;
- ability to lift, carry or otherwise move everyday objects;
- speech, hearing or eyesight;
- memory or ability to concentrate, learn or understand; or
- perception of the risk of physical danger.

What about treatment?

Someone with an impairment may be receiving medical or other treatment which alleviates or removes the effects (though not the impairment). In such cases, the treatment is ignored and the impairment is taken to have the effect it would have had without such treatment. This does not apply if substantial adverse effects are not likely to recur even if the treatment stops (i.e. the impairment has been cured).

Does this include people who wear spectacles?

No. The sole exception to the rule about ignoring the effects of treatment is the wearing of spectacles or contact lenses. In this case, the effect while the person is wearing spectacles or contact lenses should be considered.

Are people who have disfigurements covered?

People with severe disfigurements are covered by the DDA 1995. They do not need to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities.

What about people who know their condition is going to get worse over time?

Progressive conditions are conditions which are likely to change and develop over time. Examples given in the DDA 1995 are cancer, multiple sclerosis, muscular dystrophy and HIV infection. Where a person has a progressive condition s/he will be covered by the DDA 1995 from the moment the condition leads to an impairment which has some effect on ability to carry out normal day-to-day activities, even though not a substantial effect, if that impairment is likely eventually to have a substantial adverse effect on such ability.

It should be noted that as a result of changes to the DDA 1995 due to be implemented, cancer, multiple sclerosis and HIV infection will be deemed to be a disability from the point of diagnosis without the need for the individual to show the condition has substantial adverse effect on normal day-to-day activities. Relevant information on changes to the DDA 1995 can be obtained from the Equality Commission for Northern Ireland.

What about people who are registered disabled?

Those registered as disabled under the Disabled Persons (Employment) Act (Northern Ireland) 1945 both on 12 January 1995 and 2 December 1996 were treated as being disabled under the DDA 1995 for three years from the latter date. At all times from 2 December 1996 onwards they are covered by the DDA 1995 as people who have had a disability. This does not preclude them from being covered as having a current disability any time after the three year period has finished. Whether they are or not will depend on whether they, like anyone else, meet the definition of disability in the DDA 1995.

Are people with genetic conditions covered?

If a genetic condition has no effect on ability to carry out normal day-to-day activities, the person is not covered. Diagnosis does not in itself bring someone within the definition. If the condition is progressive, then the rule about progressive conditions applies.

Are any conditions specifically excluded from the coverage of the DDA 1995?

Yes. Certain conditions are to be regarded as not amounting to impairments for the purposes of the DDA 1995. These are:

- addiction to or dependency on alcohol, nicotine, or any other substance (other than as a result of the substance being medically prescribed);
- seasonal allergic rhinitis (e.g. hayfever), except where it aggravates the effect of another condition;
- tendency to set fires;
- tendency to steal;
- tendency to physical or sexual abuse of other persons; exhibitionism; voyeurism.

Also, disfigurements which consist of a tattoo (which has not been removed), non-medical body piercing, or something attached through such piercing, are to be treated as not having a substantial adverse effect on the person's ability to carry out normal day-to-day activities.

A person with an excluded condition may nevertheless be protected as a disabled person if he or she has an accompanying impairment which meets the requirements of the definition. For example, a person who is addicted to a substance such as alcohol may also have depression, or a physical impairment such as liver damage, arising from the alcohol addiction. While this person would not meet the definition simply on the basis of having an addiction, he or she may still meet the definition as a result of the effects of the depression or the liver damage.

Appendix D: Further information

Leaflets about the Disability Discrimination Act 1995

A range of leaflets about the DDA 1995 is available from the Equality Commission

The Equality Commission for Northern Ireland

Equality House
79 Shaftesbury Square
Belfast
BT2 7DP

Telephone: 028 90 500 600
Textphone: 028 90 500 589
Fax: 028 90 315 993
E-mail: information@equalityni.org
Website: www.equalityni.org

Other sources of information

Disability Organisations

Outlined below are a list of some disability organisations. This list is not exhaustive. The representative groups listed below can assist in identifying other relevant disability groups from which information can be obtained.

Disability Action

Portside Business Park
189 Airport Road West
Belfast BT3 9ED

Telephone: 02890 297880
Fax: 02890 297881
Textphone: 02890 297883
E-mail: hq@disabilityaction.org

Royal National Institute for the Blind (RNIB)

40 Linen Hall Street
Belfast BT2 8BA

Telephone: 02890 329373
Email: rnibni@rnib.org.uk

Royal National Institute for the Deaf (RNID)

Wilton House
5 College Square North
Belfast BT1 6AR

Telephone/Textphone: 02890 239619
Email: information@rnid.org.uk

Mencap

Segal House
4 Annandale Avenue
Belfast BT7 3JH

Telephone: 02890 691351
Email: mencapni@mencap.org.uk

Cedar Foundation

Malcolm Sinclair House
31 Ulsterville Avenue
Belfast BT9 7AS

Telephone: 02890 666188
Email: info@cedar-foundation.org

Building design

Building Regulations

The following Parts of the Building Regulations (Northern Ireland) 2000 give requirements so that all people can safely and conveniently access, circulate within and use a building –

1

2

3

4

5

6

7

Appendix

- Part R ensures that reasonable provision is made for people to gain access to and use buildings;
- Part H, along with other safety requirements, ensures that stairs and ramps are reasonably safe and guarding is provided to prevent people falling; and
- Part V, along with other safety requirements, ensures that glazing is made apparent to prevent people colliding with it.

Copies of the Building Regulations (Northern Ireland) 2000 can be obtained from the Stationery Office (contact details below) or by following the links from www.buildingregulationsni.gov.uk.

Guidance

Copies of British Standard 8300:2001 'Design of buildings and their approaches to meet the needs of disabled people – Code of Practice' can be obtained from the British Standards Institute:

Telephone: 020 8996 9002
 Fax: 020 8996 7001
 Website: www.bsi-global.com

Making websites accessible

Disabled people use a wide range of specialist hardware and software to access computers. It is important that websites are designed to be compatible with this. Websites can also have 'access features' built into their design, such as a choice of font sizes or colour schemes.

RNIB's online Web Access Centre can provide more information on designing and evaluating websites.

The Stationery Office

16 Arthur Street
 Belfast
 BT1 4GD

Telephone: 028 90 238451
 Fax: 028 90 235401
 Website: www.tso.co.uk/bookshop

Sections 49A and 49B of the Disability Discrimination Act 1995 (as inserted by Article 5 of the Disability Discrimination (Northern Ireland) Order 2006

PART VA

PUBLIC AUTHORITIES

General duty

- 49A.** — (1) Every public authority shall in carrying out its functions have due regard to—
- a) the need to promote positive attitudes towards disabled persons; and
 - b) the need to encourage participation by disabled persons in public life.
- (2) Subsection (1) does not apply to—
- a) the functions of the Director of Public Prosecutions for Northern Ireland relating to the prosecution of offences; or
 - b) any act of a description prescribed by regulations.
- (3) Subsection (1) is without prejudice to any obligation of a public authority to comply with any other statutory provision (including any other provision of this Act).
- (4) The Commission shall—
- a) keep under review the effectiveness of the duty imposed by this section;
 - b) offer advice to public authorities and others in connection with that duty.
- (5) Not later than 3 years after the appointed day, the Commission shall prepare and publish a report on the effectiveness of the duty imposed by this section.
- (6) In this section—
“the appointed day” means the day appointed under Article 1(2) of the Disability Discrimination (Northern Ireland) Order

2006 for the coming into operation of Article 5 of that Order; “the Commission” means the Equality Commission for Northern Ireland; “public authority” has the same meaning as in section 75 of the Northern Ireland Act 1998 (c.47).

Plan as to duty under section 49A

49B. — (1) A public authority to which this subsection applies shall prepare and submit to the Commission a plan showing how the public authority proposes to fulfil the duty imposed by section 49A in relation to the relevant functions.

(2) Any other public authority shall prepare and submit to the Commission such a plan if requested to do so by the Commission.

(3) A public authority—

- a) may at any time revise its plan and submit the revised plan to the Commission;
- b) shall, if requested to do so by the Commission, revise its plan and submit the revised plan to the Commission.

(4) A plan (or revised plan) shall—

- a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Office
- b) specify a timetable for measures proposed in the plan; include details of how it will be published.

(5) Subsection (1) applies to any public authority except one which is notified in writing by the Commission that that subsection does not apply to it.

(6) If a public authority—

- a) fails to submit a plan under subsection (1) before the end of the period of 6 months beginning with the appointed day or, if later, the establishment of the authority,

- b) fails to submit a plan under subsection (2) before the end of the period of 6 months beginning with the date of the request under that subsection,
- c) fails to submit a revised plan under subsection (3)(b) before the end of the period of 3 months beginning with the date of the request under that paragraph, or
- d) submits to the Commission under paragraph (3)(a) or (b) a revised plan which in the opinion of the Commission fails to comply with subsection (4),

the Commission shall lay before the Assembly a report of that failure containing such comments and other material as appear to the Commission to be appropriate to bring to the attention of the Assembly.

(7) A public authority—

- i. shall review its current plan under this section—
in the case of an authority in relation to which there is a scheme under Schedule 9 to the Northern Ireland Act 1998, at the same time as the authority reviews its current scheme under paragraph 8(3) of that Schedule;
- ii. in the case of any other authority, at such times as the Commission may request; and

(b) inform the Commission of the outcome of the review.

(8) In this section—

“the appointed day”, “the Commission” and “public authority” have the same meanings as in section 49A;

“the relevant functions” means the functions of the public authority or, in the case of a plan submitted in response to a request which specifies particular functions of the public authority, those functions.”.

Equality Commission

FOR NORTHERN IRELAND

How can we help?

The Equality Commission for Northern Ireland can give advice and information on the Disability Duties through training, telephone and textphone advice, booklets and leaflets or we can meet with you.

For further information, please contact us at:

Equality Commission for Northern Ireland
Equality House
7-9 Shaftesbury Square
Belfast
BT2 7DP



Telephone: 028 90 500 600



Textphone: 028 90 500 589



Fax: 028 90 248 687



Email: disabilityduties@equalityni.org



Website: www.equalityni.org

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