

national transition support team

working together to improve transition
for disabled young people

Disability Equality: Fulfilling duties for young people in transition Appendices

The information leaflet *Disability Equality: Fulfilling duties for young people in transition* can be downloaded here:

www.transitionsupportprogramme.org.uk/resources/toolkits.aspx

Appendix A: The Specific Duties

To support work on the general duty the DDA gives the government the power to impose specific duties. Specific duties have been imposed around the information that a public authority should publish to show how it is fulfilling the general duty ⁽¹⁾ ⁽²⁾.

The specific duties are summarised in the Code of Practice as follows:

- a public authority should publish a Disability Equality Scheme demonstrating how it intends to fulfil its general and specific duties
- a public authority should involve disabled people in the development of the Scheme
- the Scheme should include a statement of:
 - the way in which disabled people have been involved in the development of the Scheme
 - the authority's methods for impact assessment
 - steps which the authority will take towards fulfilling its general duty (the 'action plan')
 - the authority's arrangements for gathering information in relation to employment, and, where appropriate, its delivery of education and its functions

- the authority's arrangements for putting the information gathered to use, in particular in reviewing the effectiveness of its action plan and in preparing subsequent Disability Equality Schemes
- a public authority must, within three years of the Scheme being published, take the steps set out in its action plan (unless it is unreasonable or impracticable for it to do so) and put into effect the arrangements for gathering and making use of information
- a public authority must publish a report containing a summary of the steps taken under the action plan, the results of its information gathering and the use to which it has put the information ⁽³⁾.

References

1. The relevant regulations are The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005, SI No. 2966, regs 2, 3 and 4.
2. The Equality Act will give government the same powers to impose specific duties to support the public sector equality duty.
3. *The Duty to Promote Disability Equality Statutory Code of Practice England & Wales pp54-55* (Disability Rights Commission, 2005)
www.dotheduty.org/files/Code_of_practice_england_and_wales.pdf

Appendix B: Good practice checklist for services

A good service will:

✓ Have an inclusive mission statement
✓ Have undertaken an access audit
✓ Have in place a Disability Equality Scheme which has involved disabled children and young people and their families in its design.
✓ Actively encourage disabled children and young people and their parents to be engaged and to work collaboratively from the outset: whether that is in the design or delivery of services, in order to ensure the best possible provision for those who use it. It will do this by modelling a person-centred approach, and by identifying any barriers to access and inclusion for disabled individuals and working to remove or minimise those.
✓ Be responsive to the needs of those disabled persons seeking to use it , and pay particular attention to transition points, i.e. introduction and admission to the service, and leaving or moving on.
✓ Where the service is a mainstream one, review and improve the provision of specialist advice, support and staff training , in order to promote positive inclusion of disabled children and young people.
✓ Have an overt commitment to disability equality and will be able to demonstrate this by: <ul style="list-style-type: none">• Involving and including disabled children and young people and their families, in shaping and delivering services (participation) ;• Seeking regular feedback (customer satisfaction);• Setting targets;• Monitoring (How well are we doing?).

Appendix C: Checklist for Commissioners

Arrangements should be made to:

✓ Ensure that the contractor fully understands any disability equality requirements of the contract and find out about their approach to the DED. They should be geared up to anticipate need rather than just respond to needs as they arise.
✓ Make clear what expectations you have about how the contractor will serve and engage disabled people.
✓ Check that service providers do not presume that their services will be accessible to disabled young people with a range of impairments simply by providing auxiliary aids or services that are suitable for people with individual disabilities ⁽¹⁾ .
✓ Include a requirement in the contract that the contractor must comply with the anti-discrimination provisions of the Act.
✓ Ask the service to gather and provide evidence to enable the local authority or other commissioning service to demonstrate its compliance with the general or specific duties.
✓ Establish how the service will ensure consultation and participation of disabled young people.

Examples of what else should be considered include:

- How will the service monitor performance and outcomes in terms of disability equality?
- The duty to make reasonable adjustments is an anticipatory duty, owed to disabled people 'at large' ⁽²⁾. What arrangements are already made to ensure reasonable access to the service? (Access audit and action plans)
- How flexible will the service be to meet the individual support needs of a disabled 'customer'?

References

1. *The Duty to Promote Disability Equality Statutory Code of Practice England & Wales* p75
Disability Rights Commission (2005)
www.dotheduty.org/files/Code_of_practice_england_and_wales.pdf
2. Code of Practice p167

Appendix D:

How can a contracted organisation promote disability equality?

A contracted organisation such as a charity that has been commissioned to deliver a service will, in its general approach, ideally:

- **Use the general duty positively**
The approach to the DED should be to use the general duty as a positive opportunity to think strategically about disability equality, and how best to improve the lives of disabled children and young people.
- **Be geared towards the promotion of independent living**
For those accessing adult social care, all social care and other support services should be based on the principles of independent living. This means organisations commissioning and providing services should be fully committed to delivering services that enable choice, control, autonomy and participation. Awareness of the social model of disability will facilitate this.
- **Be committed to disability equality**
A contracted organisation should be able to show how commitment to disability equality is a fundamental principle that is embedded in all aspects of its organisational life and function. Such an organisation will consider both macro (vision and strategic plans) and micro (day to day life for the individual with complex needs) in the review of any existing provision to ensure it is adequately inclusive and in the introduction of new services.

The extent to which an organisation does all this should be evident from its DED statement and could be further demonstrated through the inclusivity of the organisation's:

- mission statement
- the services it is providing
- the policies it has set
- the practices that are taking place
- Equality and Diversity Policy that has a specific component relating to Disability Equality

- Review policies and procedures to ensure these are appropriately cross referenced to disability equality, both for services and customers, and for staff and volunteers. Pay particular attention to recruitment and selection and staff development policies
- Core training for staff to raise awareness/establish and follow-through links to appraisal and supervision and personal development plans
- Core competencies: knowledge, skills and behaviours (including language)
- Public profile: publicity, publications/literature in accessible formats. Identify, promote and share examples of good practice.

It will also be useful to consider how the organisation:

- Consults with disabled service users and their families i.e. a customer focussed organisation that listens and is responsive
- Encourages active participation and works to the principles of co-production
- Consults and seeks advice from disability 'experts'/organisations
- Consults with staff
- Benchmarks and sets targets
- Reviews communication methods and accessibility of these e.g. visual and aural, summaries and pictorial or easy-read versions, website, DVD
- Assesses impact – ways to check that the policies and changes are actually having the intended effect and making a difference to the lives of children and young people in ways that matter to them.

Appendix E:

Promoting Disability Equality Positively: A guide to forming a general approach

Disability equality

The Code of Practice which accompanies the DDA 2005, provides a brief introduction to the particular features of disability equality, based on what is known as 'the social model of disability.' The Code defines disability equality as, '*Full opportunity and choices for disabled people to improve their quality of life and be respected and included as equal members of society*'. It recognises that this is not yet a reality for disabled people, who do not, as yet, enjoy the same opportunities or choices as those who are not disabled. However, more than that, that they also do not enjoy equal respect, and neither are they fully included in society on an equal basis. The social model shows how many of the barriers to full inclusion which are experienced by disabled people, have their roots in the attitudes and environmental features encountered.

The Social Model of Disability

According to the social model:

Impairment is an injury, illness, or congenital condition that causes or is likely to cause a long-term effect on appearance and/or limitation of function of the individual.

Disability is the loss or limitation of opportunities to take part in society on an equal level with others due to social and environmental barriers.

Impairments and chronic illness often pose real difficulties for disabled people but they are not the main problems. It is the 'barriers' which exist in society that create the main problems. The three main areas of barrier are:

- environment (including inaccessible buildings and services)
- attitudes (stereotyping, discrimination and prejudice)
- organisations which operate inflexible procedures and practices.

Definition of the social model taken from the Office of Disability Issues website:
www.officefordisability.gov.uk/resources/model-s-of-disability.php

A broader understanding of discrimination

Amendments made by the DDA 2005 to the 1995 Act show a greater understanding of the pervasive roots of discrimination encountered by disabled people and their hitherto potential powerlessness within society. It does this by moving the focus in terms of discrimination, taking it from individual acts of discrimination, to the positive actions that public bodies must take in order to tackle discrimination, and to promote equality at an institutional and organisational level. This reflects the social model of disability.

The DED can be seen as providing a framework that facilitates the focusing of public policy and services towards the independent living goals of promoting choice, control and participation. In both policy and practice, this means:

- Promotion of community living rather than institutional care
- Provision of support to facilitate social inclusion and participation
- Ensuring that delivery of social care and other support services maximises choice and control.

Any support system should be aiming to tackle and remove barriers to social inclusion and participation for disabled people.

The Disability Equality Duty

As a result of the 2005 amendments, a duty is now placed on all public authorities, when carrying out their functions, to have due regard to the need to:

Promote:

- **equality of opportunity** between disabled persons and other persons and

- **positive attitudes** towards disabled persons

Eliminate:

- **discrimination** that is unlawful under the Act and
- **harassment** of disabled persons that is related to their disabilities

Encourage:

- **participation** by disabled persons in public life; and

Take steps to:

- take account of disabled persons' disabilities, **even where that involves treating disabled persons more favourably than other persons.**

These six elements make up the 'disability equality duty' or the 'general duty'. The main goal of this general duty is to promote equality of opportunity.

Under Part 5, section, 49A of the DDA 'due regard' must be had to all these needs whenever a public authority carries out any of its 'functions' – which means in practice that the duty is in play whenever a public authority does anything which might affect disabled people – which in turn may well be everything it does. This makes the section 49A duty similar to the duty on children's services authorities under section 11 of the Children Act 2004 to carry out their functions 'having regard to the need to safeguard and promote the welfare of children'.

The Disability Equality Duty requires organisations across the public sector to be proactive in ensuring that disabled people are treated fairly. This includes schools and hospitals, local and central government, health trusts and emergency services. The Duty is designed to cover the full range of the activities undertaken by public sector organisations, and requires organisations to include disabled people in these. So it includes all stages of development, from policy making and design through to delivery of actual services to the public.

A particular point to note is that the Disability Equality Duty (DED) does not just apply to

current and future policies and practices. It also means that public bodies have to look at the impact of past decisions and consider whether or not those decisions paid due regard to disability equality. If it is now deemed that they did not do that at the time, then it will be necessary for the organisation to take action to address this shortfall. This is likely to have implications for how resources are best used to meet the needs of disabled children, young people and adults who have high levels of (or multiple) health and care support needs. For example where resources have previously been tied up in institutional care, they are then not easily released to provide the additional funding necessary to meet the requirements of those with more complex needs, leading to inequality in health and social care provision.

Fulfilling the Disability Equality Duty

The purpose of the DED is to make sure that when services or policies are being developed, then institutions consider, from the outset, the impact upon disabled people. In order to be effective and meaningful, this needs to be an intrinsic approach at the design stage, rather than an afterthought that risks excluding individuals.

Starting from the fundamental principle of entitlement, organisations and services need to work with disabled people to establish a 'can do' response to access and involvement for all. The general duty requires authorities to consider equality of all disabled people. This means that public authorities may need to consider the impact of specific impairments as well as the general issues which might affect all disabled people.

An underpinning principle is the need to take account of disabled persons' impairments, even when that involves treating disabled persons more favourably than others. This may mean the need for additional services to be offered alongside a 'mainstream' approach in order to deliver equality of opportunity. In fact, this will almost certainly be the case when seeking to support and include those individual children and young with complex additional support needs, this requires particular attention and consideration as to how this can be achieved.

A core feature of the DED is the need to involve disabled people in order to identify and prioritise equality initiatives. Achieving this will also be assisted by careful use of the facility to treat disabled people more favourably than others.

The Act recognises that disabled people with different impairments can encounter and experience very different barriers according to the nature of their impairment. To gather pertinent information about this, it may well be necessary for an organisation or service to monitor outcomes according to impairment type.

Appendix F:

Examples of specific policies and actions to avoid less favourable treatment

Any service has a responsibility to make sure that it is not treating disabled young people any less favourably than non-disabled young people. Amongst a range of adjustments/adaptations that a service might make to accommodate a young person with complex support needs might be:

- Use of a multi-disciplinary assessment framework to provide a holistic overview of the child and young person's learning and support needs, and to identify the ways that they interact with their environment.
- Planning from that assessment to provide a responsive environment, supported by staff training and development activities e.g. video case-studies, individual person-centred support plans and multi-disciplinary team approach.
- Producing a person-centred support plan, which includes programmes and routines to integrate health, therapy and social care routines with daily living activities.
- Working with parents, family and others to build up a complete picture of the child and young person, including their motivations and interests and ways that they communicate.
- Integration of health and social care staff into one team, to work alongside each other and share skills.
- Communication Passports and a total

communication policy to validate all forms of communication, including AAC, Makaton signing, symbols, use of object cues, body language and gestures.

- Allowing adequate time for meaningful participation of the disabled child or young person e.g. to use personal assistance or communication support. Provide 1:1 support if needed to facilitate greater autonomy and independence. Provide information in a range of formats e.g. audio-visual. Use of switches and ICT.
- Training and good practice guidance on disability equality which is available to all staff and volunteers in the service, regardless of role.
- Access audit which includes consideration of multisensory aspects of the environment.
- Set up an 'Advisory board' which includes representation from families and residents.
- Training for all staff working with children in delegated health care tasks to minimise interruptions to activities or to continuity of support.
- Liaison with a wide range of specialist support services.
- Adaptations to the environment e.g. raising the height of a table to make it easier for a young man with increasing muscle weakness to continue to feed himself for as long as possible.

As part of an ongoing commitment to improvement, in terms of both the quality of provision and the range or number of service users, then plans and practice will be designed to provide services which are accessible and responsive, and support which is appropriate and timely. The overarching aim will be to empower disabled children and young people and ensure equality of opportunity for all.

Acknowledgements

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About cerebral palsy.
For disabled people achieving equality.

www.scope.org.uk

National Transition Support Team (NTST)

NTST is working alongside the National Strategies and the Child Health and Maternity Partnership to coordinate the delivery of the Transition Support Programme.

NTST is based at the Council for Disabled Children (CDC), the umbrella body for the disabled children's sector in England. CDC is hosted by NCB. www.ncb.org.uk/cdc

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