

Seminar Notes from Morgan Lovell Breakfast Seminar

## DISPELLING THE MYTHS – THE DDA AND PART M

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### REPORT

#### About the speaker

Peter Shattock is an “Approved Inspector” who works for GSA, a private company licensed to give building regulations approvals on both existing and new buildings.

#### Introduction

Overview of DDA legislation: DDA does not DIRECTLY apply to buildings, it applies to people. Building regulations however, apply to buildings DIRECTLY, and as a consequence affect people. The DDA exists in several parts and it is Part 3 that has had a lot of coverage in the press. However, this principally affects service providers (shops, surgeries, libraries etc) whereas this seminar was focuses on offices. From 1999 the majority of DDA legislation that applies to offices has already been in force.

**“UNDER THE DDA EMPLOYERS ARE EXPECTED TO MAKE “REASONABLE” ADJUSTMENTS TO BUILDINGS, PRACTICES AND PROCEDURES TO TAKE ACCOUNT OF LONG-TERM STAFF DISABILITIES, WHETHER NEW OR EXISTING.”**

The DDA in an office environment focuses on the “right to employment”. In offices you usually know which of your employees are disabled and what their disabilities are, so you can plan for them and provision can be specific. Under the DDA employers are expected to make “reasonable” adjustments to buildings, practices and procedures to take account of long-term staff disabilities, whether new or existing. If a member of staff becomes disabled, or a new disabled member of staff joins then DDA applies and you will need to make the necessary “reasonable” modifications.

Building regulations only apply to part of a building that you intend to modify, or are modifying. Existing structures are not subject to building regs, they are not retrospective. Building regulations are not specifically designed for disabled people and apply to all new works in their entirety whether or not you have disabled people working in the office.

#### Guidance

The guidance booklet for DDA BS8300 is 160 pages long. The Part M booklet is 80 pages long and attempts to be broader and apply to everyone, not just disabled people. In practice the requirements for each are very similar.

## Part M

Requirements apply from the site entrance, including the car park.

### Coming INTO the building, requirements apply in various situations including:

- Changes of level, ramps (changed significantly, now need shallower gradients and exemptions on hand rails have been removed).
- Entrance must be clearly visible.
- Requirement that door handles and rails (if not automatic) must not be cold to the touch eg: plastic coated steel.
- New requirement that maximum door opening pressure (if not automatic) increased to 30 newtons.

**“ONE OF THE ISSUES ABOUT THE DDA IS THE DEFINITION OF THE WORD “REASONABLE” AND THE DISABILITY RIGHTS COMMISSION (DRC) ARE TAKING CASES THROUGH COURT RIGHT NOW TO ESTABLISH WHAT IS “REASONABLE” IN CASE LAW THROUGH TEST CASES.”**

### Within the building:

- Again visual contrast must be apparent, for example around door frames, hand rails on stairs must also colour contrast with walls.
- Door opening pressure of 30 newtons also applies to internal doors.
- The requirement for 300mm leading edge of door remains..
- There can be problems in older buildings with long corridors with the requirement that changes of direction or extended corridors should have lay-bys so wheelchairs can pass each other
- The ramp requirements internally are the same as externally.
- Vertical circulation is dealt with in detail: from platforms that just jump up two or three steps, to enclosed platforms that can rise higher (with some restrictions over maximum rise) and are a lot cheaper than the third option which is a full blown passenger lift. Enclosed platforms are an option in existing buildings where a passenger lift cannot be installed. The passenger lift itself is subject to certain restrictions regarding things such as: controls height, car size, mirror height etc.

Mezzanine floors can sometimes be problematic since according to the building regulations a lift is required for access. However, in some circumstances it would be unreasonable of building control to enforce this so they may take a view depending on situation. If this is the case then you will receive an Access Statement which says clearly why certain decisions about the building were made.

One of the issues about the DDA is the definition of the word “reasonable” and the Disability Rights Commission (DRC) are taking cases through court right now to establish what is “reasonable” in case law through test cases.

A question was asked about the landlord’s responsibilities. It was explained that there was no correct answer [yet], but it would depend on whether the landlord was regarded as a service provider in the common parts of the building, in which case he would be responsible under DDA to ensure blanket provision, or if he was just responsible for providing a right to employment, in which case his responsibilities were limited to the individual disabled people who may work in the building.

## Facilities

- The regs for disabled toilets (wheelchair access cubicles) have now gone further, with the cubicle being larger and with a requirement to provide **Fire alarm beacons** for visual and hearing impaired.
- Increased requirement for ambulant facilities in the usual WC facilities eg: hand rails in one out of three cubicles, lever taps, lever latches on doors and door handles that can be opened with a closed fist.
- Visual contrast is also required in the WC with the pan and basin having to contrast with the wall and in WC, showers and lifts, there is a requirement for the flooring to contrast with the walls.
- Hearing impairment: there is a requirement for meeting rooms to have hearing enhancement facilities and also to have them in receptions where the reception is “noisy”.
- Tea points and other refreshment areas: there is a requirement that if able bodied people can use all these facilities they must be accessible to disabled people eg: sink, fridge, dishwasher, tea machine.
- New requirement on water temperature means that maximum temperature of water coming out of a tap or shower is 43 degrees.

## Questions

**Visitors to the office:** within the DDA at the moment there is no specific requirement, however you would be expected to make “reasonable” provision for access such as holding the meeting in another place or assisting disabled visitors into the building.

**Listed Buildings:** the requirements in Part M (pg. 15) state that you should be sensitive to historic buildings. While your obligation is to make reasonable adjustments, if advice from the Listed Building Officer at the local council suggests keeping things as they are then they will have the final word. Again, your Access Statement will explain clearly why controversial decisions were made.

**Does DDA apply in offices of less than 15 employees or not?** It has changed and does indeed now cover all employers except the armed forces. See excerpt from legislation below:

### Changes to Part 2 of the DDA

From 1 October 2004 the Disability Discrimination Act (DDA) was extended to cover all employers, except the armed forces. For the first time small employers will be brought within the scope of the Act, accounting for an additional 1.1 million employers and seven million additional jobs. Other key changes to the DDA Part 2, which covers employment and occupation include:

People working in the uniformed fire service, police force and the prison service will be protected by the Act for the first time.

Qualification bodies, such as the Law Society and the General Medical Council, are covered for the first time.

Trade organisations will have increased responsibilities under the Act.

Practical work experience is covered for the first time.

The Disability Rights Commission (DRC) has published two new Codes of Practice: Code of Practice Employment and Occupation and Code of Practice Trade Organisations and Qualifications Bodies as well as a booklet entitled Top Tips for Small Businesses to help employers and others affected by the new laws understand their new obligations. This information is available free of charge from the **DRC's website [www.drc-gb.org](http://www.drc-gb.org)** or from the **DRC Helpline on 08457 622 633**.

For specific cases it may be appropriate to contact a specialist access consultant. Information about these cases can be found at:

[www.drc.org.uk](http://www.drc.org.uk) Disability Rights Commission

[www.cae.org.uk](http://www.cae.org.uk) Centre for Accessible Environments

[www.nrac.org.uk](http://www.nrac.org.uk) National Register for Access Consultants

NB: since it is still early days for the legislation some may be more “militant” than others in terms of their definition of “reasonable” so it is worth spending time selecting the right consultant for your situation.

### Summary

The main point is to understand exactly why you are doing something. If you are doing something to ensure you do not discriminate against people with disabilities then the DDA applies. This may lead to new works on which the building regulations will then apply.