

THE HIGHLAND WESTERN ISLES VALUATION JOINT BOARD

DISABILITY EQUALITY SCHEME

Summary

New legislation aiming to promote disability equality recognises that public bodies have a significant impact on the lives of disabled people and requires the Highland and Western Isles Valuation Joint Board to demonstrate its commitment to improving outcomes for disabled people. Whilst the Board is an independent statutory body, it operates in close association with the Highland Council which is its statutory 'lead authority'. In carrying out its new duties the Board will seek to utilise the scale and specialist expertise of the Highland Council to assist in establishing its policies and in meeting what will remain the Board's statutory duties. The Board will also seek to co-operate in this field with its other constituent authority Comhairle Nan Eilean Siar.

The Board will seek to ensure that its activities have a positive impact on the lives of disabled people and that disabled people have a say in the decisions that affect them so far as statute permits. While the Board in its oversight of the Assessor and Electoral Registration Officer has a narrow statutory remit and no general community development responsibilities such as those of a local authority, the responsibility for electoral registration is seen as being a critical matter, for unless disabled people are fully involved in the democratic process they will not be included as equal members of society.

Legislative Background

The Disability Discrimination Act 1995 (DDA) requires the Valuation Joint Board to ensure that it does not treat disabled people less favourably in the standard of services it provides, in access to premises or employment. Reasonable adjustments must be made to ensure access to employment and services. Disability equality means that sometimes, under legislation, there may be a need to treat disabled people more favourably in order to tackle barriers and build on the requirements in the DDA to provide reasonable adjustments. [Appendix 1](#) details the key provisions of the DDA and the new duties.

The Disability Equality Duty

The DDA 1995 was amended in 2005 and from 4th December 2006 places a statutory Disability Equality Duty, also known as the "general duty", on public bodies to promote disability equality. All public bodies must give due regard to the need to:

- Promote equality of opportunity;
- Eliminate unlawful disability discrimination;
- Eliminate disability related harassment;
- Promote positive attitudes towards disabled people;
- Encourage participation of disabled people in public life; and
- Take steps to meet the needs of disabled people.

Like most public authorities, the Valuation Joint Board must also meet specific duties which set out a framework to comply with the general duty and must:

- Publish a Disability Equality Scheme by 4th December 2006;
- Involve disabled people in producing the Scheme and Action Plan;
- Demonstrate actions in the Scheme and appropriate outcomes;
- Report on progress annually; and,
- Review and revise the Scheme after three years.

Definition of disability

The DDA definition of disability is “*a physical or mental impairment which has a substantial and long term adverse effect upon your ability to carry out normal day-to-day activities*”. The definition applies to a wide range of disabilities (from people with Alzheimer’s and arthritis, to those with learning disabilities, depression, diabetes, cancer etc). [Appendix 2](#) gives further details on the definition of disability.

The Social Model

The social model of disability identifies “disabling barriers” rather than “impairment” as the problem to be tackled. Disabling barriers are the attitudinal, economic, and/or environmental factors preventing certain people from experiencing equality of opportunity because of an impairment or perceived impairment. It is society that disables a person not their impairment. By contrast the medical model focuses on impairment as being the cause of limited opportunities and life chances. The new duties follow the principles of the social model.

The Highlands and Islands Context

The Board is responsible for the oversight of the Assessor and Electoral Registration Officer who carries out valuation for rating and council tax purposes as well as electoral registration. The Board’s area has a population of over 230,000, with over 110,000 households and extends to more than a third of the landmass of Scotland.

The Highland Council and Comhairle Nan Eilean Siar, the constituent authorities of the Board are the largest employers in their respective areas and provide a wide range of services impacting on everyone who lives there ranging from refuse collection, education, community care, money advice, council tax and rates collection and many others. The two last mentioned activities lie downstream of the Assessor’s valuation work and involve engagement with the same groups whereas electoral registration focuses on all potential electors over the age of sixteen.

Different estimates of the disabled population are collated for different reasons and it is not possible to point to one definitive source to estimate numbers of disabled people. There is therefore no simple authoritative figure for the number of disabled people in Highland. However, the 2001 Census broadly captures the wording of the definition in the DDA and indicates that nearly one in five of the Highland population consider themselves to have a disability or long-term limiting illness. This is comparable with Scottish figures which estimate that around one million adults have a disability or long-term limiting illness; it is therefore apparent that disability is not a slight or marginal matter. There is strong evidence of an age related link to an increased prevalence of disability. The projected increase in older age groups in the population in future therefore implies an increase in reported disability or limiting long-term illness.

The Board intends to take full advantage of the scale and scope of the constituent councils by drawing on their experience and that arising out of their participation in their local Community Planning Partnerships in which they are principal participants. The best vehicles for developing a more comprehensive and certain view of the current situation as an aid to policy development would appear to be the constituent authorities and their partnerships and the Board will look to adopt their findings rather than engage in its own research.

In particular, there will be an initial focus on the consultation work carried out by the Highland Council in the second half of 2006 in the process of preparing its own policy statement. This includes the results of public performance surveys and staff surveys which provide large scale measures of the incidence of disability and of the perceptions of the level of service provided to disabled persons.

As there is no single umbrella body representing disabled people and the related voluntary sector in Highlands and Islands, it is intended to utilise the constituent authorities as the vehicle for contact with the wide range of support groups linked to particular impairments, some of which are local, while others are branches or members of national bodies.

While it is envisaged that in terms of consultation with, and involvement of, disabled people and representative groups this is the most practical means of ingathering views, this does not absolve the Board of the need directly to reflect on its own activities and learn the lessons from complaints and concerns that come directly to hand.

In the area of electoral registration it is clear that the disability organisations view the matter as one where they can best promote their interests via the Electoral Commission which is highly receptive to their input. This channel will be monitored closely independent of what is happening in the Highlands and Islands. Equally, direct input to the ERO and referred input via the Returning Officers will be given appropriate attention.

Given the singular characteristics of electoral registration, consideration will be given to the opportunities that exist for the combination of promotional duties in connection with electoral participation and disabilities promotional duties once expected guidance from the Electoral Commission is received and the scale of resources that are available becomes clear.

Review of Policies

It is recognised that it will be necessary on a one off basis and thereafter as an integral part of policy making, to assess the impact of policies on the disabled. As the Board has no general duty of wellbeing or the like and operates within narrow legislative limits it is considered that this duty is less onerous than those relating to a local authority. Nevertheless, all policies, particularly in the employment field, and all practices, whether formally adopted or the product of habit and routine, will require to be reviewed for adverse impact on the disabled and to be converted where possible to a positive promotional posture. Much of this work will be carried out in co-operation with the lead authority.

Action Plan

The Board's action plan, which is attached in tabulated form, will be reported on annually and revised as necessary to take account of developments over the preceding year. A formal review will take place every three years.

The Action Plan has the following key aims:

- To ensure that the Board's premises are properly accessible.
- To ensure that the Board's information is properly accessible.
- To review all policies to ensure that the way in which the Board operates is sympathetic to the requirements of disabled people.
- To ensure that employment practices are non discriminatory and encourage disability equality.
- To train staff with a view to improving awareness of the positive, promotional agenda as well as the need to eliminate negative, discriminatory practices.
- To co-operate with the constituent authorities and others to improve knowledge and understanding of the needs of the disabled, to take account of their views on policy development and to address issues that come to light in the course of consultation.
- To take particular care to promote participation in the democratic process by disabled persons.

The Board will publish this scheme and action plan on its web site and will make it available at all of its offices and by post on request.

ACTION PLAN

<u>Action</u>	<u>Elements</u>	<u>Responsibility</u>	<u>Due Date</u>	<u>Comment</u>
<p>1 Audit access to premises</p> <p>2 Address any recommendations to remove barriers</p>	<p>4 offices at Inverness Stornoway Dingwall and Wick. Liaise with constituent authorities and involve local disability access panels.</p>	<p>P.Bales - Office Manager</p>	<p>1 December 2007</p> <p>2 TBC</p>	<p>‘access’ includes facilities for ordinary and emergency use by the public and employees.</p>
<p>1 Audit access to information</p> <p>2 Ensure information can be made available in alternative formats</p>	<p>Design of new material</p> <p>Audit established paper forms, notices booklets etc.</p> <p>Audit established web site</p> <p>Audit adequacy of distribution channels and availability of supplementary aids</p>	<p>P. Bales –Office Manager</p> <p>I Broadfoot Assistant Assessor</p>	<p>1 April 2008</p> <p>2. As required</p>	<p>Seek advice and train on design principles before auditing existing material.</p>
<p>Review policies and operational procedures</p>	<p>Office based procedures</p> <p>Field procedures</p> <p>Advice and complaint procedures</p>	<p>Assessor , Office Manager and Assistant Assessor</p>	<p>Complete by December 2009</p>	<p>The review will not contemplate valuation and electoral law but rather its application as it lies within the department’s control</p> <p>Priority to be electoral followed by rating. Council tax to await decision of future of tax.</p>
<p>Review of employment practices</p>	<p>Data collection and communication channels with employees</p> <p>Recruitment and selection policy</p> <p>Equal Opportunities policy</p> <p>Harassment at work policy</p> <p>Absence management policy</p>	<p>Activity to be conducted by Assessor in concert with lead authority and in the same timeframe as the Highland Council</p>	<p>2006 - 2009</p>	

<u>Action</u>	<u>Elements</u>	<u>Responsibility</u>	<u>Due Date</u>	<u>Comment</u>
Staff Training	Establish diversity and equality training programme Ensure early presence of staff from each office on lead authority equality and diversity training course Roll out programme across staff as a whole	Office manager in concert with lead authority specialists	2007 and ongoing	To prioritise staff most in direct contact with public. Must include field staff.
Improve knowledge and understanding and act on findings	Data collection Observation, suggestion and complaint 'External' sources such as Electoral Commission Periodic meetings with lead authority	In general terms a 'piggy backing' activity involving the constituent authorities. Own input from limited operational scale. Particular departmental emphasis on electoral matters	Annual update with lead authority Continuous process.	
Promote participation in the democratic process	Incite and monitor local and Electoral Commission input. Liaise with Returning Officers. Liaise with other ERO's Combine where possible with general promotional work on electoral participation and align with national campaigns to increase impact.	ERO and P. Bales as Electoral Registration Manager	Continuous activity	Constituent authorities to be asked to include an element on electoral matters in their respective consultations in the community.

APPENDICES

APPENDIX 1

THE DISABILITY DISCRIMINATION ACTS AND THE NEW DUTIES

The Disability Discrimination Act 1995 (DDA)

The DDA was passed in 1995 to address the discrimination that many disabled people face. Different parts of the legislation took effect at different times, and the original Act has been subject to a number of amendments. The legislation now protects disabled people in:

- Employment (Part 2)
- Access to services, premises and private clubs (Part 3)
- Education (Part 4)

Part 1 Definition of disability

Provides information and guidance on what constitutes disability for the purposes of the Act, and who is protected under it (see Appendix 2).

Part 2 Employment

Prohibits discrimination in relation to employment of disabled people, including recruitment, training, promotion, benefits, and dismissal. Employers are required to make “reasonable adjustments” for a disabled person put at a substantial disadvantage by a provision, criterion or practice, or a physical feature of premises.

It also prohibits discrimination by trade organisations and qualifications bodies and provides procedures for enforcement and provision of remedies for discrimination.

Part 3 Provision of goods, facilities and services, disposal or management of premises or land, private clubs

Service providers are required to make “reasonable adjustments” for disabled people and to take reasonable steps to:

- Change a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to make use of its services;
- Provide an auxiliary aid or service if it would enable (or make it easier for) disabled people to make use of its services.

In addition, where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of services, a service provider has to take reasonable steps to:

- Remove the feature; or
- Alter it so that it no longer has that effect; or
- Provide a reasonable means of avoiding it
- Provide a reasonable alternative method of making the service available

It prohibits discrimination by private clubs and provides procedures for enforcement and provision of remedies for discrimination.

The Disability Discrimination Act (Amendment) Regulations 2003

These regulations implemented the Employment Equality Directive 2000/78/EC and amended provisions on employment including:

- Removal of the exemption for employers with less than 15 employees;
- Direct disability discrimination cannot be justified;
- New occupations such as police and partners in firms are covered;
- Four kinds of discrimination – direct discrimination, failure to make reasonable adjustments, disability-related discrimination and victimisation; and
- New provisions on harassment.

The Disability Discrimination Act 2005

The 2005 Act extends and strengthens the 1995 legislation and includes:

- Extending the scope of the DDA to cover, effectively from the point of diagnosis; people with HIV infection, cancer or multiple sclerosis;
- Removing the requirement that a mental illness must be “clinically well-recognised”;
- Advertisers are liable for publishing discriminatory advertisements;
- Elected members are covered by the DDA;
- All local authority functions are included not only “services”; and
- Less favourable treatment of disabled people by private clubs with a membership of over 25 is unlawful.

A key element of the Act is the introduction of a new general duty on public authorities to promote disability equality.

THE DISABILITY EQUALITY DUTY

The Disability Equality Duty comes into force on 4 December 2006 following amendments to the Disability Discrimination Act (DDA) in 2005. The duty to promote disability equality applies to almost all public authorities, requiring them when carrying out their functions to have due regard to the need to:

- Promote equality of opportunity between disabled people and other people;
- Eliminate discrimination that is unlawful under the DDA;
- Eliminate disability-related harassment;
- Promote positive attitudes towards disabled people;
- Encourage participation by disabled people in public life; and
- Take steps to meet disabled peoples needs, even if this requires more favourable treatment.

The duty covers all functions and activities, not just employment and service delivery, but budget setting, procurement, regulatory functions and setting the framework within which the organisation will deliver services.

Due regard, relevance and proportionality

Public authorities are expected to have "due regard" to the six parts of the general duty. This has two linked elements of proportionality and relevance. In all decisions and functions authorities should give due weight to the need to promote disability equality in proportion to its relevance. Disability equality will be more relevant to some functions than others. Proportionality requires greater consideration to be given to disability equality in relation to functions or policies that have the most effect on disabled people.

Specific Duties

Along with many other public authorities, Valuation Joint Board is also subject to a set of specific duties which are designed to help meet the overall general duty including the requirement to produce a Disability Equality Scheme. The DES is a framework to show how the organisation will plan, deliver, evaluate and report on activities to ensure compliance with the general duty. The essential elements which the DES must cover are:

- A statement of how disabled people have been involved in developing the scheme;
- The Action Plan (steps the authority will take to comply with general duty);
- Arrangements for gathering information about performance of the public body on disability equality;
- Arrangements for assessing the impact of the activities of the authority on disability equality; and
- Details of how the authority is going to use the information gathered, in particular in reviewing the effectiveness of its action plan and preparing subsequent schemes.

There are specific information-gathering measures which must be included in the disability equality scheme, these are:

- The effect of an authority's policies and practices on recruitment, development and retention of its disabled employees;
- The effect of an authority's policies and practices on educational opportunities available to and achievements of disabled pupils and students; and
- The extent to which services and functions take account of the needs of disabled persons.

Acting on the Disability Equality Scheme

The Board is required to develop a three-year Action Plan, and provide annual reports. The Board must review and revise the Scheme every three years and take the steps set out in the Action Plan in that period unless it is unreasonable or impracticable to do so. It must also assess the effectiveness of the steps it has taken to promote equality.

Enforcement

The Disability Rights Commission has the power to take legal action where authorities fail to carry out their responsibilities and in addition authorities may be subject to judicial review by interested parties.

APPENDIX 2 DEFINITION OF DISABILITY

The Disability Discrimination Act (DDA) protects disabled people. The Act sets out the circumstances in which a person is "disabled". It says a person is disabled if they have:

- A mental or physical impairment;
- This has an adverse effect on their ability to carry out normal day-to-day activities;
- The adverse effect is substantial; and
- The adverse effect is long-term (meaning it has lasted for 12 months, or is likely to last for more than 12 months or for the rest of their life).

There are some special provisions, for example:

- If an impairment substantially affects a person's ability to carry out normal day-to-day activities, but doesn't any more, it will still be counted as having that effect if it is likely to do so again;
- If it is a progressive condition, and it will substantially affect a person's ability to carry out normal day-to-day activities in the future, they will be regarded as having an impairment which has a substantial adverse effect from the moment the condition has some effect on their ability to carry out normal day to day activities;
- If a person is diagnosed as having cancer, HIV infection or multiple sclerosis they will automatically be considered as 'disabled';
- If a person is registered as blind or partially sighted or certified as blind or partially sighted by a consultant ophthalmologist, they will automatically be considered as "disabled";
- People who have had a disability in the past but are no longer disabled are covered by certain parts of the DDA.

"Normal day-to-day activities"?

At least one of these areas must be substantially affected:

- Mobility;
- Manual dexterity;
- Physical co-ordination;
- Continence;
- Ability to lift, carry or move everyday objects;
- Speech, hearing or eyesight;
- Memory or ability to concentrate, learn or understand;
- Understanding of the risk of physical danger.

Treatment

The Act says that any treatment or correction should not be taken into account, including medical treatment or the use of a prosthesis or other aid (for example, a hearing aid). The only things which are taken into account are glasses or contact lenses. The important thing is to work out exactly how an impairment affects an individual. For example, if, as a result of a hearing impairment, a person experiences difficulty hearing someone talking at a sound level which is normal for everyday conversations in a moderately noisy place, it would be reasonable to regard this as having a substantial adverse effect. Being unable to hold a conversation in a very noisy place such as a factory floor would not. If an impairment affects mobility, being unable to travel a short journey as a passenger in a vehicle would reasonably be regarded as having a substantial adverse effect. So would only being able to walk slowly or with unsteady or jerky movements. But experiencing some minor discomfort as a result of walking without help for about 1.5 kilometres or a mile would not.

Effects which are not long-term would 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.

People with severe disfigurements are covered by the Act. 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

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.

Certain conditions are not considered impairments under the DDA:

- Tendency to steal, set fires, and physical or sexual abuse of others;
- Exhibitionism and voyeurism;
- Hayfever, if it doesn't aggravate the effects of an existing condition;
- Addiction to or a dependency on alcohol, nicotine or any other substance, other than the substance being medically prescribed.

Additionally, disfigurements consisting of a tattoo or non-medical body piercing are treated as not having a substantial adverse effect on ability to carry out normal day to day activities.