

# **The Disability Equality Duty Disabled People's Toolkit**

**For disabled people enquiring about how a public authority has met its duty to promote disability equality.**

## **Introduction**

The Disability Equality Duty (DED) is a new legislative requirement placed on public authorities with the aim of delivering better disability equality outcomes. The DED requires public authorities to act proactively on disability equality issues and tackle institutional disability-related discrimination. It compliments the individual rights focus of the Disability Discrimination Act (DDA).

Certain listed public authorities like colleges, some schools,<sup>1</sup> certain museums, fire authorities, and local councils must have a Disability Equality Scheme (DES) in place by December 2006.<sup>2</sup> For the first time, there is a statutory requirement to involve disabled people - specifically in the development of a public authority's DES. Before using this toolkit please see '[The Duty to Promote Disability Equality: Statutory Code of Practice](#) England and Wales', or "The Duty to Promote Disability Equality: Statutory Code of Practice Scotland" and '[Making the Duty Work' guidance for disabled people and their organisations](#), for more information on the DED, all of which are available from the DRC website [www.dotheduty.org](http://www.dotheduty.org).

## Using the toolkit

As a disabled person you might find that a public authority you have contact with does not have a DES in place, or if it does it may not be meeting its other specific duties under the legislation, or it just isn't meeting one or more elements of the general duty to promote disability equality. If you think that a public authority is not meeting its duties and you want to find out more information from them this toolkit can help.

The toolkit is a series of standard letters which disabled people can use to ask further questions of public authorities they have an interest in. Copies should be kept of all correspondence.

- [Letter 1](#) should be used if you can't find a public authority's Disability Equality Scheme.
- [Letter 2](#) should be used if a public authority has a Scheme but it is unclear how disabled people have been involved or what influence this has had on the actions in the Action Plan.
- [Letter 3](#) should be used if you have been involved in the development of a public authority's Disability Equality Scheme but you can't see what impact your involvement has had.
- [Letter 4](#) should be used if you think a public authority's Action Plan does not include the right actions, for example actions that will lead to the most significant outcomes for disabled people.
- [Letter 5](#) should be used if you think a public authority has failed to give due regard to its general duty to promote disability equality, and you want to see a disability equality impact assessment for something they have done, or failed to do.
- [Letter 6](#) should be used if you have not received a response to your inquiries and would like to take this further. So if you do not have a response from a public authority, after sending one of the above letters, you can use letter 6 to follow up your enquiry. This letter will take your enquiry to the next stage, by initiating the public authority's formal complaints procedure.

If you completely exhaust the formal complaints procedure of the public authority and are still not satisfied with the public authority's progress in meeting the DED, you may wish to consider forwarding details of your initial complaint and all subsequent communications to the DRC Helpline. The DRC would require copies of all correspondence. Information should only be forwarded to the DRC if the above process has been followed, and exhausted.

## **Enforcement of the Disability Equality Duty**

Virtually every public authority is covered by the Disability Equality Duty, and thousands of public authorities will be required to produce Disability Equality Schemes.<sup>3</sup> The DRC will be assessing key public authorities' Schemes in how they meet the DED, and has produced an [assessment template](#) listing each of the areas it will be assessing against. The template can be found at [www.dotheduty.org](http://www.dotheduty.org).

Unfortunately we cannot guarantee to fully investigate every enquiry that comes through to the DRC Helpline from disabled people. As with other aspects of legal enforcement we will conduct an initial assessment of any enquiry, and prioritise those issues that are likely to have the most significant impact on the greatest number of disabled people.

If the DRC is not able to fully investigate your enquiry / complaint you will be notified. If this is the case, there is still the potential for individual disabled people to challenge a public authority in certain circumstances if it feels that any element of the general duty is not being met. This would be by means of a judicial review in the High Court in England and Wales or Court of Session in Scotland.

For more information on enforcement of the DED please see Chapter 6 of the [DED Codes of Practice](#).

## Letter 1 – ‘I can’t find a public authority’s Disability Equality Scheme’

Your address

Their address

Date

Dear [insert name of Chief Executive, Principal, Chair of Governors etc]

### **[Insert name of public authority]’s Disability Equality Scheme**

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people’s disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 / Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce a Disability Equality Scheme, involve disabled people in the development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme.

As a disabled resident / student / employee / service user / other [delete as appropriate] of [insert name of public authority] I am interested in your disability equality work, and would like to read a copy of your Disability Equality Scheme. I have tried to obtain a copy of your Disability Equality Scheme on your website / in your offices / by ringing your main number / other [delete as appropriate] but have not been successful.

Please can you send me a copy of [insert name of public authority]'s Disability Equality Scheme [if required in an alternative format insert details here] within 14 days. I will contact you again if I have not received a copy of your Disability Equality Scheme in this time.

Yours faithfully,

[Insert your name]

**Letter 2 – ‘I can’t see how disabled people have been involved in the development of your Disability Equality Scheme, or how this has influenced the actions in your Action Plan’**

Your address

Their address

Date

Dear [insert name of Chief Executive, Principal, Chair of Governors etc]

**[Insert name of public authority]’s Disability Equality Scheme and involvement of disabled people**

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people’s disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 / Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce

a Disability Equality Scheme, involve disabled people in the development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme.

As a disabled resident / student / employee / service user / other [delete as appropriate] of [insert name of public authority] I am interested in your disability equality work, and have read a copy of your Disability Equality Scheme. Unfortunately I cannot see how disabled people have been involved in the development of the Scheme, and how that involvement has influenced the actions in your Action Plan.

Please can you send me more details on how disabled people were involved in the development of your Scheme? I would like more information on:

- the groups of disabled people you involved, as well as individuals
- what mechanisms (eg meetings) and methods (eg online forums) you used
- and how you used the involvement of disabled people to influence your Action Plan.

Please can you send me this information [state if you need information in an accessible format] within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully,

[Insert your name]

## Letter 3 – ‘I was involved in the development of your Disability Equality Scheme, but can’t see what impact my involvement has had on your Action Plan’.

Your address

Their address

Date

Dear [insert name of Chief Executive, Principal, Chair of Governors etc]

### **[Insert name of public authority]’s Disability Equality Scheme and involvement of disabled people**

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people’s disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 / Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce a Disability Equality Scheme, involve disabled people in the

development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme.

As a disabled resident / student / employee / service user / other [delete as appropriate] of [insert name of public authority] I was involved in the development of your Scheme but cannot see what impact this has had on the Scheme's Action Plan. [Insert information of how and when you were involved and what suggestions you made, eg I was involved via a staff forum in October, and I made suggestions around sickness policies and staff development]. Please can you tell me whether this information was taken on board, and whether there is a corresponding action in your Action Plan. If my suggestions weren't taken on board please can you tell me why this was.

Please can you send me this information [state if you need information in an accessible format] within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully,

[Insert your name]

## Letter 4 – ‘I don’t think a public authority’s Disability Equality Scheme Action Plan includes the right actions’

Your address

Their address

Date

Dear [insert name of Chief Executive, Principal, Chair of Governors etc]

### **[Insert name of public authority]’s Disability Equality Scheme and Action Plan**

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people’s disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 / Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce

a Disability Equality Scheme, involve disabled people in the development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme.

As a disabled resident / student / employee / service user / other [delete as appropriate] of [insert name of public authority] I am interested in your disability equality work, and have read a copy of your Disability Equality Scheme and Action Plan. Having read your Action Plan I don't think it includes the right actions. Your Action Plan does not cover [insert more info on areas that the Action Plan does not cover eg there is no information on how you are going to improve housing for disabled people, there is no information on how you are going to increase the availability of student counselling].

As a resident / student / employee / service user / other [delete as appropriate] of [insert name of public authority] I feel that the above areas / functions need to be addressed within [insert name of public authority]'s Action Plan and Disability Equality Scheme. Please can you send me more information on why these areas aren't addressed, and any plans you have to include them in subsequent Action Plans.

Please forward this information to me [state if you need information in an accessible format] within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully,

[Insert your name]

## **Letter 5 – ‘I don’t think a public authority has given due regard to promoting disability equality in something that it has done, or has failed to do’.**

Your address

Their address

Date

Dear [insert name of Chief Executive, Principal, Chair of Governors etc]

### **Due regard to disability equality**

Section 49A (1) of the Disability Discrimination Act 2005 requires public authorities, when carrying out their functions, to have due regard to the need to:

- promote equality of opportunity for disabled people
- eliminate unlawful discrimination
- eliminate disability related harassment
- promote positive attitudes towards disabled people
- encourage participation of disabled people in public life
- take into account disabled people’s disabilities, even where that involves treating disabled people more favourably.

The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 / Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 [delete as appropriate] also require certain listed public authorities to produce a Disability Equality Scheme, involve disabled people in the

development of that Scheme, and, included in the Scheme, to produce an Action Plan detailing the steps that the authority plans to take during the lifetime of the Scheme. Public authorities must also set out their method of assessing the impact of policies and practice on disabled people.

I am concerned that [insert name of public authority] hasn't given due regard to [insert element of the general duty eg eliminating disability related harassment, promoting positive attitudes] in one of its functions. [Insert details of policy, practice, or initiative where you feel due regard hasn't been given e.g. reducing the number of parking bays for disabled people, decision to close or downgrade a hospital].

The general Disability Equality Duty requires you to consider disability equality in relation to everything you do and impact assessment – which you should have set out your arrangements for conducting in your Disability Equality Scheme - is the means by which you can ascertain how effectively to comply with the duty. Please can you indicate how you have had due regard to the need to promote disability equality in all its elements in your decision to [insert details] and in particular can you send me a copy of the disability equality impact assessment you conducted before taking this decision / amending this policy / continuing with this practice [delete as appropriate]. If you have not conducted such an assessment, please indicate why not.

Please forward this information to me [state if you need information in an accessible format] within 14 days. I will contact you again if I have not received more information from you in this time.

Yours faithfully,

[Insert your name]

**Letter 6 – ‘I haven’t received a response to my original letter (letter 1-5) and want to proceed with a formal complaint’**

Your address

Their address

Date

Dear [insert name of Chief Executive, Principal, Chair of Governors etc]

**[Insert name of public authority]’s Disability Equality Scheme**

I wrote to you on [insert date of last letter] about [insert details of last letter, eg about your involvement mechanisms, about not having a Disability Equality Scheme] and asked you to forward [insert details of information you requested, eg a copy of your Disability Equality Scheme] within 14 days.

I have not received any more information from you and, as I believe you are potentially in breach of your obligations under the Disability Discrimination Act, I would like to lodge a formal complaint. Please take this letter as the first stage in the complaint process and provide me with information on how to progress this complaint within 14 days. [State here if you need the complaints procedure to be in an accessible format].

Yours faithfully,

[insert your name]

## **Appendix A: Glossary**

### **Action Plan**

A list of action points showing the steps that the authority is going to take to fulfil its general duty

### **Compliance Notice**

A legal notice served on a public authority requiring them to do certain things to meet the duty within a set time

### **Disability equality impact assessment**

The process by which a public authority assesses the impact of policies, practices or procedures for their affect on disabled people

### **Disability Equality Scheme**

A document bringing together all the work the authority has done, and plans to do to fulfil its general and specific duties to promote disability equality

### **General duty**

A requirement on public authorities to have due regard to the need to: promote equality of opportunity; eliminate unlawful discrimination; eliminate disability related harassment; promote positive attitudes towards disabled people; encourage participation by disabled people in public life; take into account disabled people's disabilities even where that involves more favourable treatment

### **Judicial Review**

A claim to the High Court in England and Wales or the Scottish Court of Session asking the court to review the way a public authority made a decision

### **Institutional discrimination**

A form of discrimination borne out of processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and stereotyping.

Institutional discrimination can arise from actions not taken as well as actions taken, and can be unintentional as well as intentional.

### **Public authority**

All bodies certain of whose functions are functions of a public nature

### **Specific duties**

Requirements that certain listed public authorities must meet to assist them in meeting the general duty, including involving disabled people and action planning.

## Endnotes

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- <sup>1</sup> Certain schools do not have to produce a DES until April 2007 and December 2007. For a full list please see the [DRC's guidance for the primary and secondary education sector](#) at [www.dotheduty.org](http://www.dotheduty.org). Schools in Scotland do not have to produce a DES, but Education Authorities do.
- <sup>2</sup> **In England and Wales** please see Appendix A in the [DED Code of Practice](#) for a list of all public authorities that will be required to produce a Disability Equality Scheme in those countries. This list is taken from the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005 which detail the specific duties, and which may be updated from time to time. **In Scotland**, please see Appendix A in the Scottish DED Code of Practice. Also see our publication "Authorities covered by the Disability Equality Duty in Scotland" which lists every Scottish and British body covered by the duty. The list is taken from The Disability Discrimination (Public Authorities) (Statutory Duties) (Scotland) Regulations 2005 which detail the specific duties, and which may be updated from time to time.
- <sup>3</sup> Some public authorities are excluded from the general duty, including both houses of parliament, and the Scottish Parliament. For the complete list of exclusions see paragraph 5.9 in the [DED Codes of Practice](#).