

# Lift Owner Guide to The Disability Discrimination Act

**The Disability Discrimination Act 1995 places duties on those providing goods, facilities or services to the public and those selling, letting or managing premises. The Act makes it unlawful for service providers, landlords and other persons to discriminate against disabled people as follows.**

- By refusing to provide ( or deliberately not providing ) any service which it provides ( or is prepared to provide ) to members of the public; or
- In the standard of service which it provides to the disabled person or the manner in which it provides it; or
- In the terms on which it provides a service to the disabled person.

The duties on service providers are being introduced in three stages:

- Since 2 December 1996 it has been unlawful for service providers to treat disabled people less favourably for a reason related to their disability;
- Since 1st October 1999 service providers have had to make "reasonable adjustments" for disabled people, such as providing extra help or making changes to the way they provide their services; and
- From 1st October 2004 service providers may have to make other "reasonable adjustments" in relation to the physical features of their premises to overcome physical barriers to access.

The Act says that discrimination against a disabled person occurs in two possible ways.

One way in which discrimination occurs is when a service provider:

- Treats the disabled person less favourably – for a reason relating to the disabled persons disability – than it treats (or would treat) others to whom that reason does not ( or would not ) apply; and
- Cannot show that the treatment is justified

The other way in which discrimination occurs is when a service provider;

- Fails to comply with a duty imposed on it by section 21 of the act ( a duty to make "reasonable adjustments" ) in relation to the disabled person; and
- Cannot show that the failure is justified

The act says that "services" include " access to and use of any place which members of the public are permitted to enter".

Thus a person who permits " members of the public" to enter such a place is providing a service to those people consisting of access to and use of that place.

Complex issues arise in the case of premises with more than one occupier, where there are common areas such as entrance halls, stairways and lifts. The act does not expressly state whether or not the landlord ( including any operator of the common parts ) in such a case is a service provider for the purposes of the Act in respect of those common areas. Therefore, it does not make it explicit whether the landlord is under a duty to make reasonable adjustments to the common parts to make them accessible to disabled people.

Whether the landlord is under such an obligation is likely to depend on whether the place is one "which members of the public are permitted to enter". If members of the public are permitted to enter the premises, the landlord is likely to be a service provider in respect of access to the premises. If members of the public are not permitted to enter the premises, the landlord is unlikely to be a service provider under the Act.

However, the Act does not define who are "members of the public", except to the extent that the definition of service provider refers to the provision of services to "the public or to a section of the public".

Members of the public are clearly permitted to enter some places. A shopping mall is an example. If the owner of a shopping mall leases shop units to individual retailers, the owner will be responsible for the common areas, such as access roads, pavements, car parks, toilets, lifts and stairs. By allowing members of the public to use these common parts, the owner is providing services to the public and is subject to the Act.

The situation of an office building with more than one occupier is not so clear. Whether the landlord is himself a service provider in respect of the common parts is likely to depend upon whether members of the public are permitted to enter the premises.

There appears to be no single test that determines whether a place is one which members of the public are permitted to enter. Whether or not a person entering the premises is a member of the public is likely to depend on all the circumstances of the case. A number of factors may be relevant, including:

- Whether tenants who are service providers are actually providing services in the building rather than from the building;
  - Whether those admitted to the building are there for the purposes of the occupier (such as employees or maintenance and service personnel) or whether they are there for purposes of their own (such as existing or potential clients or customers); and
  - The nature and extent of the security and screening arrangements in place.
- Thus, a building which is normally used only by employees of the tenants is unlikely to be regarded as a place which members of the public are permitted to enter. Conversely, a building which is normally used by customers or clients of tenants may well be a place which members of the public are permitted to enter.

Because the issue is so complex, landlords of premises with more than one occupier should not assume that they are not service providers for the purposes of the Act. They should anticipate that they are not service providers for the purposes of the Act. They should anticipate that they may have responsibilities to make the common parts accessible to disabled people. They are advised to keep up to date with how the law in this respect is being interpreted.

So, assuming that you are a 'service provider'; what do you need to know about the requirements relating to lifts within your buildings?

The Disability Discrimination Act 1995 makes it unlawful to treat disabled people in a less favourable manner to the way that you treat other people. It urges 'service providers' to consider ways in which physical barriers to access by disabled people can be removed.

The identification of such barriers should be determined by an 'access audit' and through site inspection. An 'access audit' may identify the fact that your building requires the installation of a new lift or upgrading of an existing installation to make it into an accessible lift.

Guidance is given on what is an 'accessible lift' in the following documents

- Part M2 Building regulation
- BS8300 Design of buildings and their approaches to meet the needs of disabled persons
- EN81-70 Accessibility to lifts for persons including persons with disabilities.
- prEN81-28 Remote Alarm on Passenger and Goods lifts

Part M2 of The Building regulations is desperately in need of revision to give guidance on all disabilities, not just guidance in connection with wheel chair users.

BS8300 is a code of practice, which officially sets the level of current thinking with regards to the design of buildings, it deals generally with the issue of lift provision; it does not go into much detail regarding the design of the lifts to meet the needs of the disabled.

EN81-70 is a product standard that replaces BS8300 now it is formally issued as a 'harmonised standard' during 2003. it deals more specifically with the needs of accessibility for the disabled in lifts and will therefore form the basis of compliance

prEN81-28 will become a product standard in due course when it is formally issued as a 'harmonised standard' during 2003. it deals more specifically with the needs of remote alarm accessibility for the disabled in lifts and will therefore form the basis of compliance.

So what is an 'accessible lift'?

A lift that intending users can find an access.

Signs indicating the location of an 'accessible lift' should be provided in a location that is clearly visible from the building entrance.

The 'accessible lift' should be on the same level as at least one entrance door to the building or access between levels should be provided by means of a ramp.

A handrail shall be installed on at least one side wall of the lift car and in cases where there is insufficient space to allow a wheelchair user to turn the wheelchair round, a device (e.g. mirror) should be installed to enable the wheelchair user to back out of the lift whilst looking for potential obstacles.

Where any wall of the car is substantially mirrored, measures should be taken to creating optical confusion for users with impaired vision (e.g. decorated glass, or a minimum vertical distance 300mm between the floor and bottom edge of the mirror).

The lift car should stop at floor level with a stopping accuracy of  $\pm 10$  mm; and should have a levelling accuracy of  $\pm 20$ mm.

A lift that has sufficient manoeuvring space on each landing.

The landing should be free from obstacles allowing for easy wheelchair access.

There should be an unobstructed space 1500mm wide x 1500mm deep (away from landing entrance) on each landing.

A lift has push buttons that are identifiable, easily found and easy to use.

Car and landing buttons should meet the requirements of Table 2 within the standard. Faceplates should contrast with surrounding car wall.

Landing controls should be mounted adjacent to the landing doors. At a height between 900mm and 1100mm above floor level. Group systems should have at least one set of buttons per face for lifts that are facing one another and at least one set of buttons for a maximum of four adjacent lifts (side by side).

The car-operating panel shall incorporate floor buttons with floors designated -2, -1, 0, 1, 2 etc.; an "alarm" button, "door open" and "door close" buttons. These buttons should be set at a height between 900mm and 1200mm above floor level.

The car operating panel should be on the right hand side of the lift car(when entering), where centre-opening doors are installed; and on the closing side (when entering) where side-opening doors are installed.

A lift that has simple signals that let the user know what's going on.

An audible signal should be incorporated on lifts with 'push button control', to indicate when the doors start to open.

Direction arrows should be incorporate on lifts with "collective control", to indicate the next direction of travel. An audible signal should accompany the illumination of the arrows; the sound should differ for the up and the down direction (e.g. one sound up - two sounds down).

The car-operating panel should incorporate a 'position indicator', set at between 1600mm and 1800mm above floor level.

The car operating panel should incorporate 'voice annunciation' to advise on the floor level.

The emergency alarm device should conform to requirements of prEN81-82 and incorporate visible and audible signals to inform users of the 'alarm status'. It should also incorporate an aid to communication, such as an acoustic coupler with the loud speaker, for impaired hearing.

A lift that has doors that provide easy access

The car and landing doors should be automatic and power operated and should have a minimum entrance clear opening width of 800mm

The control system should allow for the door dwell time to be adjusted suiting the site conditions where the lift is installed (normally between 2 and 20 seconds).

A door protection sensor, in compliance with EN81-1/2, is required to prevent physical contact between the user and the leading edges of the closing door panel(s). the device shall act continuously over a distance between 25mm and at least 1800mm above the car door sill.

Langham lifts will be pleased to assist with an 'access audit', it is important that you take steps to satisfy the requirements of the Disability Discrimination Act as soon as possible, so as to avoid the predictable rush in the early part of 20