

The Disability Discrimination Act

**A Policy and Practice Guide for
Local Government by
Disabled People**

April 1996

This Booklet has been validated by

*The Disability Research Unit
School of Sociology & Social Policy
University of Leeds*

Contents

1. Contributors
2. How to Use this Booklet
3. The Social Model of Disability
4. The Disability Discrimination Act
5. Developing Disability Policy
6. Recruitment and Selection
7. Disability Equality Standards

Contributors

1.0 Editors

Lorraine Cameron	Rochdale Metropolitan Borough Council
Alden Chadwick	Wakefield Metropolitan District Council
Isobel Howie-Finn	Barnsley Metropolitan Borough Council
Sarah Roelofs	Chesterfield Borough Council

2.0 Legal advice

Ian Bynoe	Institute of Public Policy Research
-----------	-------------------------------------

3.0 Policy advice

Peter Aley	Plymouth City Council
Richard Baker	Bedfordshire County Council
Paul Batterbee	Liverpool City Council
Rachel Bedingfield	Training Organisation (Wetherby, West Yorks)
Julia Bird	Bradford & District Coalition of Disabled People
Keith Burry	Choices & Rights Disability Coalition (Hull)
Rosemary Chambers	Wakefield Metropolitan District Council
Ken Charters	North Tyneside Council
Nick Clarke	Kirklees Metropolitan Council
Elma Cooper	Derbyshire Coalition of Disabled People
David Critchlow	Wakefield Metropolitan District Council
Frank Dethridge	Newham Access & Disability Advisory Group
Craig Durden	Cleveland County Council
David Gayter	Staffordshire County Council
David Gibbs	Derbyshire Centre for Integrated Living
Michael Gill	Oldham Borough Council
Ruth Gore	Tameside Metropolitan Borough Council
Lorraine Gradwell	Manchester City Council
Brenda Hamilton	Bradford Access Action
Gillian Hindley	Dacorum Borough Council
Tony Houlton	UNISON Regional Members Group
Maggie Hunt	Training Organisation (Wetherby, West Yorks)
Anita Jackson	Gedling Borough Council
Judith Jesky	Cambridge City Council
Keith Johns	South Hams District Council
Mary Johnson	Tameside Metropolitan Borough Council

Sylvia Lockwood	DIAL (Wakefield)
Alice Maynard-Lupton	Association of Disabled Professionals
Reg McLavghlin	Harrow Association for Disability
Jean Middlemiss	North Tyneside Council
Susan Morrell	Armley Resource Centre Management Committee
Jill Mortimer	Local Government Management Board
Miles Nesbitt	Preston Borough Council
Les Nevin	Hartlepool Borough Council
Pauline Nugent	Peer Counselling Project (Bradford)
Ged Parker	Hartlepool Access Group
Lillian Parkinson	Disabled in York
Mark Priestley	University of Leeds
Trevor Ramsey	Valid & Disability Arts Group (Bradford)
Cohn Revell	Choices & Rights Disability Coalition (Hull)
Geraldine Rushton	Calderdale Metropolitan Borough Council
Ena Savage	Hartlepool Access Group
Darryl Smith	Bradford City Council
Betty Smith	Resource Centre for Deafened People (York)
Jackie Smith	Bradford City Council
Paula Spencer	UNISON National Disabled Members Committee
David Stead	Forum of People with Disabilities (Sheffield)
Vivienne Stone	Kirklees Metropolitan Council
Neville Strowger	Manchester City Council
Laura Taylor	Barnsley Metropolitan Borough Council
Pam Thomas	Liverpool City Council
Gloria Thompson	Liverpool City Council
Linda Tordoff	Disabled in York
Ann Trotman	Bristol City Council
Ann Webster	Derby City Council
David Whitfield	Sheffield City Council
Beth Whiting	Oldham Disability Alliance
Andy Wilson	Cleveland County Council
Peter Wright	Tyndale District Council

3.0 Project Sponsors

- Association of Metropolitan Authorities
- Local Government Management Board
- Association of District Councils
- Association of County Councils
- Sheffield City Council
- Tameside Metropolitan Borough Council
- Wakefield Metropolitan District Council
- Chesterfield Borough Council

4.0 Northern Officer Group

Although the booklet is the product of the hard work and commitment from many members of the Northern Officer Group¹ the responsibility for errors, omissions and mistakes lies with the editors.

Section 2: How to Use this Booklet

1.0 The aim

The aim of this booklet is to provide you with a framework for implementing the Act which limits its negative and irrelevant aspects. The ideas in the booklet have changed and developed over the duration of its writing, and, no doubt, will continue to develop over the coming years. Consequently, it is not by any means the final word on the meaning of the Act for disabled people. You should use it as living resource informed by many individuals' (employees and service users) experiences of disability. The policy examples we have included were chosen because they illustrate the scope of the legislation - they are not meant to be comprehensive.

As you may need to be selective in your choice of ideas in order to fit the culture, politics and resources of your own Authority, or to keep up with changes in the legislation, you are free to amend the text and/or to reproduce it verbatim. All that we ask is that you do not compromise the Social Model of Disability and that you credit the Northern Officer Group (NO 0) whenever you use text from the Booklet.

2.0 Floppy disks

There is no copyright, so you are free to use the text of the Booklet in your own work. Floppy disks will enable you to 'export' text from the booklet into your own documents. The Guidance Notes were originally written on Apple Mac Claris Works 2.1., and subsequently updated to Claris Works 4.0; but, we may be able to convert the files into a suitable PC Exchange format for you. Please indicate your preferred format and send a 3.5 inch high density blank disk and a Stamped Addressed Envelope to the address given below. **This is also the contact point for general enquiries about the booklet.**

Alden Chadwick
Equality Unit
Sheffield City Council
Room 131
Town Hall
Sheffield
S1 2HH Tel (0114) 2735408

3.0 Large print, braille and tape formats

Large Print and Braille and Tape formats are free and available from:

John Britton
Braille and Large Print Service
Central Library
Calverley Street
Leeds
LS1 3AB
Tel (0113) 2477999

4.0 Review and updating

It is hoped that we will be able to review and update the booklet in 1997. If you have any suggestions as to how it can be improved or updated; please contact:

Jill Mortimer
Local Government Management Board
Arndale House
Arndale Centre
Luton
Tel. (01582) 451166 LUI 27S

Section 3: The Social Model Of Disability

1.0 Development of the social model of disability

In the early 1970s, disabled people used their personal experience of disability and institutional life to show that it wasn't their impairments which caused the 'problem' but the way in which society failed to make any allowances for their differences and shut them away instead. This way of thinking about, analysing and discussing disability became known as 'The Social Model of Disability'. It explains disablement as the result of any behaviour or barriers which prevent people with impairments choosing to take part in the life of society.

The social model does not wish to deny the existence of impairments and physiological differences - far from it; rather it addresses them without attaching value judgements such as 'normality' and shifts the emphasis towards those aspects of our world that can be changed. Therefore, we believe that using the social model will help you to implement the Disability Discrimination Act more effectively.

2.0 The causes of disability

The Disability Discrimination Act says that the inability to carry out activities is caused by an impairment or impairments; for example, you are not mobile because you have a spinal injury. This understanding of disability is said to be a medical model of disability because the causes of disability are attributed only to medical conditions.

The Act specifies that a person has a disability if she or he has a physical or mental impairment which has a substantial and long term effect on her/his ability to carry out normal day to day activities if it affects one or more of the following:

- mobility
- manual dexterity
- physical co-ordination
- continence
- ability to lift or carry or otherwise move everyday objects
- speech
- hearing
- eyesight (unless correctable by spectacles)

- memory or ability to concentrate or learn or understand
- perception of the risk of danger

The social model is not limited by such a narrow description of activities. It takes the wider view that the ability to undertake such activities is dependent upon social intervention. It can show that the limitation of activity is not caused by impairments but is a consequence of social organisation - hence the phrase 'social model'. For example, your ears don't work and you cannot hear (impairment): but you cannot participate in meetings because you have not been provided with a British Sign Language Interpreter (you are disabled by a failure of social organisation).

3.0 Discrimination

Because the medical model uses impairment to account for disability, other words, such as 'discrimination', must be used to address the fact that many people with impairments are not getting jobs and are prevented from participating in politics, social events and the life of the community in general. But, by saying that 'disability' (the inability to participate) is *caused* by impairments, means that people with impairments will always be seen as being inferior, or second rate, or inherently flawed. In this way discrimination becomes something which is done to 'limited' people who cannot carry out 'normal' activities.

The social model does not need a separate notion of discrimination because the model already focuses on those aspects of society which *disable* people; discrimination and disability become one and the same thing. For example, because an employer will not provide sufficient training and support for a person with learning difficulties the employer is discriminating against and **disabling** her or him.

In short, the social model says that a person is disabled if the world at large will not take into account their physical or mental differences.

4.0 Consequences of using the medical model

There are three unintended consequences which flow from using a medical model of disability. Firstly, because the medical model says that a person is disabled if her/his impairment has an effect on her/his "activities", it does not take into account the many social factors which may also have an effect on "day-to-day activities".

For example, although an impairment can have an adverse effect on a person's walking, other social factors, such as the design of transport Systems, will also have an equal if not greater adverse effect on their mobility.

Secondly, the medical model puts a value judgement on activities; for example, by saying that it is "normal" to hear, speak or see, the Act is stating, by omission, that activities such as using British Sign Language, Text phones and Braille are **abnormal**.

Thirdly, the medical model allows a spurious distinction to be made between those things which state, financial and industrial organisations will be held responsible for and those things which they will not be held responsible for. For example, such organisations will be responsible for individual prejudicial behaviour; or minor architectural barriers, or slight rigidities in job design. They will not be held responsible for:

- The systematic exclusion of disabled people from mainstream education (Barnes, 1991, pp 28 - 61).
- The systematic undermining of disabled individuals in hospitals and residential homes: (Hunt, 1966, pp.153-154):
- The way in which social pressures drive some disabled people to commit suicide. (Morris, 1992, pg.2):
- The manufacture of disablement itself (Swain *et al*, 1993).

5.0 Reasonable Adjustments

By introducing the idea of 'reasonable adjustment' and thus legislating for changes to (or 'adjustments' to) social practices and built environments the Disability Discrimination Act does acknowledge the disabling aspects of social organisation. However, because the Act also claims that disability is caused by impairment and because it does not point out the disabling effects of social practices and built environments, it encourages disabled peoples' legitimate requests for adjustments to be thought of as unrealistic demands to accommodate the abnormal.

Alternatively, use of the social model of disability will mean that adjustments to reduce the disabling effects of society can become subject to comprehensive analysis, discussion and the setting of realistic priorities.

6.0 Further reading and references

Barnes, C. (1992), *Disabling Imagery and the Media*, (Halifax, Ryburn).

Barnes, C. (1991), *Disabled People in Britain and Discrimination: A case for Anti-Discrimination Legislation*, London, Hurst I Calgary

Barton, L. (1989), *Disability and Dependence*, (Lewes, Falmer).

Davis, K. (1993), On the Movement, in: Swain, J., Finkelstein, V., French, S., and Oliver, M (eds) *Disabling Barriers - Enabling Environments*, (London, Sage in association with the Open University).

Dreidger, D. (1989), *The Last Civil Rights Movement*, (London, Hurst and Co.).

Finklestein, V. (1980), *Attitudes and Disabled People*, (Geneva, World Health Organisation).

Hunt, P. (Ed) (1966), *Stigma: The Experience of Disability*, (London, Geoffrey Chapman).

Laurie, L. (1991), *Building Our Lives: Housing, Independent Living and Disabled People*, (London, Shelter).

Morris, J. (1991), *Pride Against Prejudice: Transforming Attitudes to Disability* (London, The Women's Press).

Morris, J. (1992), *Disabled Lives*, (London, BBC Education).

Oliver, M. (1983), *Social Work with Disabled People*, (London, Macmillan).

Oliver, M. (1990), *The Politics of Disablement*, London, Macmillan.

Oliver, M. and Barnes, C. (1991), Discrimination, Disability and Welfare From Needs to Rights, in: Bynoe, I., Oliver, M.¹ and Barnes, C., *Equal Rights and Disabled People: The Case for a New Law*, (London, Institute of Public Policy Research).

Swain, J. Finklestein, V. French, S. and Oliver, M. (eds) (1993), *Disabling Barriers - Enabling Environments*, (London, Sage in association with the Open University).

Section 4: The Disability Discrimination Act

1.0 History and background to the legislation

The Disability Discrimination Act (DDA) is an important piece of legislation. It introduces new rights for disabled people and places duties on employers and suppliers of goods and services.

The Act represents a governmental response to a campaign by disabled people for equality spanning nearly three decades. The first attempt to introduce civil rights legislation was made by Lord Ashley in 1982 and there have been fourteen attempts since. The most recent was the Civil Rights (Disabled Persons) Bill introduced by Harry Barnes MP in 1994. In the same session the Government introduced its own legislation, the Disability Discrimination Bill, and ensured that the Civil Rights Bill failed due to lack of time. For much of 1994 and 1995 the two Bills were moving through the legislative process together, provoking considerable debate and argument on the way.

The DDA has had therefore, a controversial and high profile political history. It remains controversial within the disabled people's movement as simultaneously a source of severe disappointment and guarded optimism. The main problems with the Act are:

- It make discrimination against disabled people lawful in certain circumstances.
- It is informed by an essentially negative individualised and medical understanding of disability.
- The employment provisions do not apply to the 96% of firms which have less than 20 employees (Col 14, Hansard 24 January 1995).
- Educational services are excluded from the main provisions of the Act.
- Those sections of the Act which relate to public transport will have limited impact; and,
- There is no enforcement commission to take up and prosecute individual cases and monitor the overall effect of the Act.

As the statute itself merely established the broad framework, detailed clarification of the legislation will have to wait until regulations and codes of practice are issued, and until the relevant sections are interpreted by industrial tribunals or the courts. Therefore, what follows should not be seen as a comprehensive technical interpretation of the legislation. However, as the broad legislative principles are unlikely to change within the life of this Government we believe that this explanation will provide you with a valuable tool for implementing the Act.

2.0 Overview of the Act

2.1 Rights

The Act creates the following “rights” for anyone defined as a “disabled person”:

- not to be discriminated against in employment
- not to be discriminated against in the provision of goods, facilities and services; and
- not to be discriminated against in the selling or letting of land or property.

It must be noted that these are not universal rights, as various exemptions will apply: for example, only certain degrees of impairment will qualify individual disabled people for rights and certain types of organisations will be exempted from any legal obligations.

2.2 Education

Education statutes are amended to require the publication of non-discrimination policies and practices by schools and further and higher education institutions. Further and higher education institutions will also have to report progress made on implementing such policies. However, as there are no new means provided for enforcing those non-discrimination policies and practices, these amendments do not create enforceable personal legal rights to an integrated education.

2.3 Transport

New provisions on transport accessibility empower the Secretary of State to make minimum access requirements mandatory. Enforcement for breach of these requirements will be by criminal proceedings and I or withdrawal of operating licences. Thus, this section does not create personal legal rights for individuals seeking access.

2.4 Disabled Persons (Employment) Act 1944

Many key sections of the Disabled Persons (Employment) Act 1944 will be repealed including 'Green Card' registration and the 3% quota for firms I organisations which employ 20 or more employees.

2.5 Regulations and Codes of Practice

Duties not to discriminate on grounds of disability will rely not just on the Act itself but will be complemented by guidance (including Codes of Practice on employment) and regulations. Regulations are likely to be made regarding:

- the definition of terms like "disability", "impairment", "long-term effects", "severe disfigurement", "normal day-to-day activities", "effect of medication" etc.
- what is to be "justified discrimination in employment" and the extent of the duty on employers to make adjustments.
- what is to be "justified discrimination in service delivery" and the extent of the duty on service providers to make adjustments.
- the accessibility standards for Taxis, Public Service Road Vehicles, and Trains.

2.6 implementation timetable

Although the Government have not as yet published a precise implementation timetable, discussions with civil servants from the DSS Disability Unit and the Department for Education and Employment suggest the following:

July 1996	Commencement Order bringing into force Education provisions and Definitions sections.
	Codes on Disability Definition and Employment issued.
Around the end of 1996	Protection in the field of employment (apart from the duty of reasonable adjustments on trade organisations).
December 1996	Protection from being refused goods, facilities or services.

1997 onwards All other provisions, subject to separate consultation.

3.0 Definition of a 'Disabled Person'

3.1 A social model of disability

We have shown in section 3 that the definition of a disabled person given in the Act is essentially a medical model of disability. It is important to bear in mind that this medical model is not the only¹ nor indeed, the most useful³ way of defining disability. As an alternative we suggested that a social model of disability would be more useful when it comes to implementing the Act.

To summarise, the social model says that people with impairments are disabled by society; it specifies that a person is disabled if she or he has a physical or mental impairment and if she or he is prevented from taking part in society by one or more of the following:

- lack of access to the built environment
- poor employment prospects
- lack of access to information
- the imposition of negative or patronising images
- reduced social contact

In short, a person is disabled if the world at large will not take into account their physical or mental differences.

Note: when devising ways to implement the Act it is useful to remember w

- That when the Act talks of "disability" it is referring to impairment and functional limitation.
- That when the Act mentions "discrimination" and "barriers" this roughly equates with the social model understanding of disability.

However, for the sake of clarity the rest of this section uses the medical model language of the Act. Readers may find it useful to refer back to this section from time to time to remind themselves of the crucial differences between the social and medical models of disability.

4.0 Discrimination in employment

4.1 Discrimination

It will be unlawful for an employer to discriminate against a disabled person:-

- a) in recruitment and selection arrangements
- b) in the terms on which employment is offered
- c) by refusing to offer, or deliberately not offering, employment
- d) in the terms of employment which are offered to an employee
- e) in the opportunities which are offered to an employee for promotion, transfer, training or receiving any other benefit
- f) by refusing to offer the employee, or deliberately not offering her/him any such opportunity
- g) by dismissing the disabled person, or subjecting her/him to any other disadvantage.

An employer will be said to discriminate against a disabled person if, for a reason which relates to the person's *disability* she/he treats her/him less favourably than other non-disabled employees and the treatment cannot be justified. The word "relates" seems to provide a basis for challenging indirect discrimination. For example, if a person is blind and uses a dog, the definition would cover an employer's behaviour towards the person because of her/his need to be accompanied by the dog - which is a reason relating to her/his *disability* but not the same as her/his *disability*.

4.2 Justification

The definition of discrimination given in the Act is different from that in the Race and Sex discrimination legislation, since the scope for justified discrimination is far greater. There is no absolute prohibition of discrimination on the grounds of *disability* as such. Instead some forms of discrimination will be allowable if reasons for it can be given₁ that is, if it is "justified" in terms of the Act. To be justified a reason must be "substantial and material". An example of justification would be if the "adjustments" to work practices required for the employment of a disabled person were not considered to be "reasonable".

4.3 Reasonable Adjustments

The duty to make 'adjustments' has been borrowed from the "reasonable accommodation" idea contained in the Americans with Disabilities Act of 1990; it is the centrepiece of the Disability Discrimination Act and clearly differentiates it from other equality legislation. In social model terms, this new duty can be described as an instruction to remove barriers which disable people with impairments; it is essentially an example of positive action. However, there is no automatic right to a reasonable adjustment, rather, it should be seen as a part of the right not to be discriminated against on the grounds of disability. For example, an individual cannot demand the removal of disabling barriers unless those barriers have a direct disabling effect on that individual. Take recruitment and selection, first an employer has to figure out if the reason for not giving a disabled applicant the job is related to disabling barriers within his / her organisation, or if it is because the applicant does not have the requisite skills or experience regardless of any disabling barriers. If the reason is related to disabling barriers then the employer will have to work out if the adverse effect of the barriers could be removed by adjustments and if the adjustments are in fact "reasonable".

If disabling barriers can be eliminated by a reasonable adjustment and the employer fails to make that adjustment then they will be guilty of treating the disabled applicant less favourably than non-disabled applicants.

The duty to make adjustments is not triggered unless disabling barriers in the work place "the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled". The problem for policy makers is that the precise meaning of the term "substantial" is not clear. Whether or not a disadvantage is substantial or not will ultimately be the decision of an industrial tribunal.

The following are examples of actions listed in the Act which an employer may have to take in relation to a disabled person in order to make a reasonable adjustment:

- a) making adjustments to premises (for example, widening doors or installing visible fire alarms, though regulations may limit this obligation where Building Regulations have been complied with)
- b) allocating some of the disabled person's duties to another person
- c) transferring her/him to fill an existing vacancy (a moderately common practice in well developed Retention and Redeployment policies)

- d) altering her/his working hours (for example, adjusting the core times of a flexi-time scheme)
- e) assigning her/him to a different place of work (For example, same job, different office)
- f) allowing her/him to be absent during working hours for rehabilitation, assessment or treatment
- g) giving or arranging training (presumably specific training on issues such as working with a personal assistant)
- h) acquiring or modifying equipment
- i) modifying instructions or reference manuals
- j) modifying procedures for testing or assessment
- k) providing a reader or interpreter
- D) providing supervision (for example, providing additional support and training for a person with learning difficulties)

In deciding if it is reasonable to require an employer to undertake a particular action the following factors will be taken into account by Industrial Tribunals:

- a) the extent to which taking the action would prevent the disabling effect in question
- b) the practicability of such a step
- c) the financial and other costs and the degree of disruption to the employer
- d) the financial and other resources available to the employer
- e) the availability to the employer of financial and other assistance (for example, the "Access to Work" scheme)

Although the Act says that cost will be a factor when considering whether or not an adjustment is reasonable the Government has said that it does "not intend to put a financial ceiling" on such costs and the draft Code mentions that many changes can be made for no cost or very little cost.

In summary, an employer will be found to be discriminating if she/he fails to comply with the duty to make adjustments and cannot show that the failure to comply is justified in terms of the above framework.

In a strict legal sense in the case of recruitment and selection an employer will not have to make any reasonable adjustments unless the applicant concerned has told the employer that she/he is applying for a job. Thus there is no legal obligation on an employer to be proactive in the sense of catering for all hypothetical disabled applicants. Experience tells us however, that if procedures and practices are not in place for providing an accessible Recruitment and Selection process, organisations will find that even the most modest of reasonable adjustments (for example, getting a British Sign Language interpreter or a wheelchair accessible interview room) will prove difficult, and delays could mess up the whole schedule. Furthermore, once an employer knows that an applicant has a particular impairment the onus is on the employer to provide an accessible process - it is not up to the disabled applicant to request 'reasonable applicants'

4.4 Positive action and positive discrimination in employment

It is useful to consider the distinction between Positive Action and Positive Discrimination. Positive Discrimination, for example, priority interview schemes (where disabled applicants go through the selection process before non-disabled applicants are considered), or ring fencing vacancies for disabled people only, will be unlawful, according to Government Ministers, when the Employment sections of the Disability Discrimination Act come into force in late 1996.

The reason that Positive Discrimination will become illegal for local authorities is the existence of the Local Government and housing Act 1989. This Act says that appointment must be on "merit". Until the advent of the Disability Discrimination Act there was an exemption clause in the 1989 Act wherein local authorities who were below the 3% quota could appoint suitably qualified disabled applicants in place of better qualified non-disabled applicants. But with the repeal of the quota provisions the exemptions clause is repealed too.

When asked whether priority interviewing could continue, the Parliamentary Under Secretary of State for Education and Employment, James Paice said:

“The priority interview scheme is part of what is being repealed, so the answer is no; but there are a number of other ways in which local authorities, in appointing staff, will be able to take positive action to allow disabled people to demonstrate their merit" (Col 120, Hansard 31 October 1995).

It is clear that the following positive action measures will be permissible:

- guaranteeing interviews for suitably qualified disabled applicants;
- positive training (ie. training courses to bring disabled people to the same level of skill and qualification as non-disabled people in a similar position) and
- positive advertising (that is, placing adverts which 'welcome applications from disabled people')

However, it is the opinion of some local authority legal advisors that, as 'ring fencing' and priority interviews may not preclude selection on "merit", and, that as the whole issue needs to be clarified by judicial review, it is too early to state categorically that it will be unlawful for local authorities to adopt positive discrimination schemes.

Also, it is not clear yet whether or not the setting of direct experience of disability as a selection criterion for disability related jobs, such as access officers or social workers working with disabled service users, will be permissible. At this stage we are of the opinion that experience of disability (combined with a knowledge of the social context of that disability) is a quality worthy of merit and must be included in employee specifications.

It is interesting to note that other public sector organisations such as National Health bodies and Government departments, and organisations in the private sector are not affected by the Local Government and Housing act 1989 and can therefore use positive discrimination measures.

4.5 Enforcement of the Employment Section

A complaint of discrimination may be presented to an Industrial Tribunal (IT) generally within three months of treatment complained of and disabled employees will have recourse to the law regardless of their length of service.

If an IT finds that discrimination has taken place it can:

- Make a declaration of rights: that is, a disabled person who has won a case against an employer will be entitled to a formal declaration as to her I his respective rights and the employer's duties. This is the most likely outcome where the complainant has suffered no measurable loss or where there is a point of legal principle at stake.
- Order compensation: which may also include compensation for injury to feelings.
- Make a recommendation or recommendations: to obviate or reduce the adverse (discriminatory) effects faced by the complainant.

If an IT makes a recommendation and an employer fails (without reasonable justification) to comply with it, the IT can then order compensation or increase this if it has already ordered it. Save for compensation for injury to feelings (which is likely to be limited to a prescribed maximum), the potential compensation award will be unlimited.

The Act anticipates that there will be an attempt to reach a conciliated settlement between the two parties before going to an IT. In this respect an Advisory, Conciliation and Arbitration Service (ACAS) officer will be asked to seek conciliation between parties.

The Act will make provision for Disabled people to use a prescribed questionnaire procedure in order to obtain evidence of reasons for treatment. That is, questionnaires can be provided and employers will have a legal duty to fill them in and give details relevant to the case. Answers will be admissible in evidence to an IT.

No legal aid will be available for tribunal cases. However, limited advice may be obtained under the "green form" scheme where one or two hours of free legal advice can be given. Also, Law Centres and Citizens Advice Bureau may be able to support people at industrial tribunal. And, Trade Union legal departments or national disability organisations may provide a legal service to complainants.

4.6 Exemptions from the employment provisions

Operational police officers; prison officers; fire fighting personnel₃ and members of armed services are not covered by the Act. Small employers (employing less than 20 employees) are also exempted. There will be a review of this last exemption five years after implementation,

but the Act does state that the Minister will only be able to decrease the number of employees bringing an employer within the scope of the Act. So, for example, the definition of small employers may become 'those employing less than 15 employees', and thus, potentially, extending legal rights to more disabled people.

5.0 Rights in relation to the supply of Goods, Facilities, Services and Premises

Regulations will be crucial to the working of this part of the Act since they will be used to illustrate or cap the obligation to remove disabling barriers (to make adjustments). They may also be made to define circumstances where discrimination is justified (for example insurance services).

5.1 Goods, Facilities and Services

The Act imposes duties on a "provider of services". This is defined as a person (but includes legal entities such as local authorities and other organisations) who "is concerned with the provision in the United Kingdom of services to the public or a section of the public". Such "services" include "the provision of any goods or facilities" and it is irrelevant whether or not payment is made for them.

"Goods" would appear to be any personal or movable property. "Facilities" is not defined and presumably means anything which is neither goods nor services.

The Act does give some examples of services, for instance, access to any place the public can enter; access to and use of communication or information services; accommodation or facilities for entertainment, recreation or refreshment. It also explicitly includes "...the services of any local or other public authority". This part therefore has a major potential impact for local authority service provision. In Committee the Minister confirmed that facilities for telecommunication, the judicial system and legal proceedings, and broadcasting services are intended to be covered as well.

5.2 General prohibition on discrimination

The Act makes it unlawful for a provider of services to discriminate against a disabled person in the following ways:

- a) If she/he refuses to provide goods, facilities or services which she provides or is prepared to provide to other members of the public;

- b) If she/he fails to comply with the duty to make reasonable adjustments where the effect of such a failure is to make it "impossible or unreasonably difficult for the disabled person to make use of" the service;
- c) If she/he provides a service to a disabled person to a lesser standard or in a manner which is unsatisfactory compared to how those services would be provided to a non-disabled person;
- d) If she/he offers a service on different terms to those offered to a non-disabled person.

5.3 The meaning of discrimination

The definition of discrimination given in this part of the legislation is similar to that in the employment part. A provider of services discriminates against a disabled person if all the following conditions are satisfied:

- a) The service provider treats the disabled person less favourably than he/she treats or would treat other members of the public; and,
- b) Such less favourable treatment is for a reason which relates to the disabled person's *disability*; and,
- c) The service provider cannot show the treatment is justified.

5.4 The duty to make adjustments

This will be enormously important and there are three situations here (each will be affected by regulations which are likely to limit the maximum expenditure a service provider may be required to spend).

- a) Where the provider has a practice, policy or procedure which makes it impossible or unreasonably difficult for a disabled person to use the service there is a duty to change that practice, policy or procedure so that it no longer has that effect.
- b) Where it is a physical feature "for example one arising from the design of a building or the approach or access to premises" which has an adverse effect then the service provider must take reasonable steps to remove the feature; or alter it to prevent the effect; or provide reasonable means of avoiding the feature; or provide a reasonable alternative for the disabled person.

c) Where the provision of auxiliary aids or services (for example, information on audio/video tape or a sign language interpreter) would enable a disabled person to use the service, the service provider has a duty to take reasonable steps to provide them.

In no case will the service provider be required to take steps which would fundamentally alter the nature of her service or trade. For example, a newspaper publisher wouldn't have to convert all her/his newspapers into talking newspapers in order to accommodate blind people. Or, a climbing school wouldn't have to alter its climbing walls to accommodate wheelchair users who wish to abseil.

5.5 Reasons for justification

There are five situations in which discrimination may be justifiable. A service provider must show that at the time of the discrimination, in her/his opinion, one of these was satisfied and that it is reasonable for her I him to hold that opinion. (How the law on justification develops will be crucial because the adjustment duty still appears to provide scope for segregation and differential treatment).

a) The less favourable treatment is necessary in order to avoid endangering the health or safety of any person.

b) The disabled person is incapable of entering into an enforceable agreement or of giving an informed consent.

c) Where refusal of a service is "necessary" for the provider to be able to provide the service to other members of the public.

d) Where the less favourable treatment concerns the standard (or quality) of the service offered if it is "reasonably necessary" for the service provider to be able to provide the service to the disabled person or other members of the public.

e) Where less favourable treatment can be justified as reflecting an unreasonable greater cost to the provider of providing her/his services to the disabled person.

Where a service provider is subject to a duty to make adjustments (say, from a past case), then the justification defence is only available if that duty has been complied with, or it is reasonable for the provider to believe that even if she/he had complied with it, the way in which she/he treated the disabled customer would have still been justified.

5.6 Premises

Separate provisions in the Act render unlawful certain specified behaviours concerning the disposal (for example, the selling or renting) of premises or the management of premises. Local authorities, as major providers of rented housing, will be subject to these provisions.

It will be unlawful to discriminate against a disabled person when selling or renting property in the following ways:

- a) in the terms on which premises are offered to be disposed of (for example, asking a higher selling price to disabled buyers);
- b) by refusing to dispose of premises to the disabled person (for example, it will be illegal to say that you won't sell a house to someone simply because they are disabled);
- c) in the treatment of the disabled person in relation to any list of persons in need of premises of the sort in question.

It will be unlawful for someone who manages premises to discriminate against a person occupying those premises in the following ways:

- a) in the way that person permits the disabled person to make use of any benefits or facilities (for example, banning disabled people from certain areas);
- b) by refusing or deliberately omitting to permit the disabled person to make use of any benefits or facilities;
- c) by evicting the disabled person, or subjecting her / him to any other detriment on the grounds of disability.

As with the other sections of the Act, discrimination regarding premises is defined as less favourable treatment for a reason which relates to the disabled person's disability.

Again, a person is justified in treating a disabled person less favourably if, in her/his opinion, one of a list of prescribed conditions is satisfied, and it is thought to be "reasonable" for her/him to hold that opinion. The prescribed conditions are similar to those given in the previous sections of the Act and can be summarised as follows:

- a) the treatment is necessary in order not to endanger the health or safety of any person (which may include the disabled person her/himself);
- b) the disabled person is incapable of entering into an enforceable agreement;
- c) where the less favourable treatment relates to the way the disabled person is permitted to make use of any benefits or facilities but such treatment is necessary for the disabled person or occupiers of other premises forming part of the building to make use of the benefit or facility;
- d) where the treatment is refusing or deliberately omitting to permit the disabled person to make use of any benefits or facilities and it is necessary in order for occupiers of other premises forming part of building to make use of this benefit or facility.

Regulations will allow for the extension of the list of justified less favourable treatment.

The big difference between the Act's treatment of premises and other sections of the Act is that there is no duty to make adjustments to buildings. Also, there is no mention of new houses being built to accessible standards. The Government intends to continue to rely on Building Regulations to provide a legislative framework for access to premises.

5.7 Enforcement of the Goods, facilities, Services and Premises sections

A claim of unlawful discrimination will be the subject of civil proceedings "in the same way as any other claim". Proceedings will be through the County Court and appeals will go to the Court of Appeal. As with employment cases, damages may include compensation for injury to feelings. The court will be able to order mandatory action (and not just recommend it like the IT) and could commit a person for non-compliance with its order., Legal aid will available for proceedings.

The Secretary of State may establish or arrange an advice and assistance service with a view to promoting settlement of disputes out of court, that is, a type of conciliation service.

6.0 Education

Educational services are still excluded from the main impact of the Act, apart from the employment provisions and their impact on the employment of teachers etc.

However, provisions in Part IV amend the 1993 Education Act and the 1992 Further and Higher Education Act to give a higher profile to the publicising of information in relation to the provision of a non-segregated educational service. But, there are no additional means provided for enforcing the provision, so these sections do not create enforceable personal legal rights (in contrast to much of the rest of the Act).

The Act specifies that School Annual Reports will have to include a section containing information as to:

- a) the arrangements for the admission of disabled pupils (ie.. those defined as disabled persons under the Act);
- b) the steps taken to prevent disabled pupils from being treated less favourably than other pupils;
- c) the facilities provided to assist access to the school by disabled pupils.

Every local education authority will have to publish disability statements at such intervals as will be prescribed relating to its provision of facilities for further education for disabled persons.

The Act will make Further and Higher Education Funding Councils require institutions providing education to produce disability statements at prescribed intervals. This will be a condition of the Council's funding to colleges and universities etc. Funding Councils will have to report annually to the Secretary of State on the progress made in the provision of services to disabled persons.

7.0 Public Transport

New detailed provisions will empower the Secretary of State to establish minimum access requirements in taxis (but not, in general, private hire vehicles), public service vehicles, and in rail vehicles.

Particular provisions will also cover access for wheelchair users and the conveyance of guide dogs and hearing dogs. These provisions will not create personal legal rights and enforcement will be by criminal proceedings for breach of regulations, licences etc. The time scale for full implementation is likely to be very lengthy.

8.0 Advisory Bodies

The lack of an enforcement agency (similar to the Commission for Racial Equality or the Equal Opportunities Commission) is one of the major concerns of organisations of disabled people. This omission puts the onus on disabled individuals or groups of disabled people to take cases.

The Act establishes a new National Disability Council (NDC) to advise the Government on measures to eliminate or reduce discrimination against disabled people and to advise on how the Act is working. The NDC will have between 10 and 20 appointed members who are considered, by the Government, to have specialist knowledge or experience of disabled people and/or who are representatives of business or of professional bodies. At least half of the members will have to be disabled people or be the parents or carers of disabled people.

The National Disability Council will not advise the Government on the employment provisions, this task will fall to the existing National Advisory Council on Employment of People with Disabilities (NACEPD). The NACEPD was established by the 1944 Disabled Persons Employment Act to advise on employment matters. It is also an appointed body made up of an independent chair, 3 workers representatives, 3 employers representatives and 11 independent representatives. The NACEPD does not have the remit of advising individuals or groups who feel that they have been discriminated against. The National Advisory Council on Employment of People with Disabilities will be reviewed some time around 1997.

Section 5: Developing Disability Policy

1.0 Introduction

The 'Developing Disability Policy' section outlines some of the policy implications of the Disability Discrimination Act. It lists the key tasks which we believe a local authority should carry out if it is to implement the Act effectively. Each 'Action Point' will be expanded in the following text.

2.0 Action Points

- Ensure that strategic plans are in place to co-ordinate the provision of "reasonable adjustments".
- Agree a short "Direction statement' at the outset to ensure co-ordination of the various decision making processes.
- Adopt the social model of disability to provide a framework for practical policies.
- Formally identify the knowledge required for effective policy making.
- Formally identify the aims and objects of your consultation with disabled people and the different sorts of knowledge they will need to meet them.
- Formally identify the resources you will require to facilitate meaningful consultation with organisations of disabled people.
- Recognise that disabled people are by definition different, and establish methods to systematically identify and monitor the potentially disabling consequences of your organisation's policies.

3.0 A strategic approach

When the Act is in force and awareness spreads, claims for 'reasonable adjustments' will not arrive one at a time. For example, though it may be relatively easy to provide one British Sign Language interpreter for one Deaf applicant on any one day, problems will arise when perhaps two Deaf q applicants have interviews on the same day; and, at the same time, a deaf service user requires an interpreter for a public meeting.

Problems of dealing with a multiplicity of individual claims for adjustments will stem from the Act's focus on individual rights rather than on changing disabling elements of social organisation. For example, the duty to make ~ at work is owed to individual disabled employees as and when the need arises; there is no general duty to make existing work environments accessible as such. However, there is an answer to these problems and it lies in the Act itself.

If your Authority has a strategic plan for addressing the removal of disabling barriers and individual requests for adjustments do not coincide with the aims of the plan then the Authority may have a defence.

For example, it could legitimately argue, using the appropriate section of the Act, that the "financial costs and the degree of disruption" to the Authority of carrying out adjustments contrary to their strategic plan would not be unreasonable³¹. The crucial point is, however, that the Authority's strategic plan is credible; that it is properly informed by the experience and knowledge of both groups of disabled people and officers within the organisation, and that it has appropriate financial and political support.

4.0 A direction for policy

4.1 Policy making In local government

When developing policies to implement the Disability Discrimination Act give some thought to the policy making process itself. For example, it is often supposed that disability issues can be identified and separated from other organisational matters with decisions then being made by an easily identifiable group of people. In the real world policy making is a long term process. Change occurs gradually by amending existing policies and practices through a series of inter-related decisions made by a number of separate working groups, committees and so on. Also³ existing policies and practices may have the effect of closing off some options and encouraging others.

4.2 Developing a "Direction Statement"

It is suggested that a Local Authority develops a clear "Direction Statement" at the outset in order to co-ordinate its various decision making processes. Such a statement should be a public document which includes:

- Descriptions of the Authority's understanding of disability, and of its strategy to become a 'barrier free' organisation;
- An outline of the processes by which change will be implemented, and
- An indication of the skills, knowledge and experience the Authority intends employ.

Perhaps such a Direction Statement could be added to, or replace, current disability equality statements. The key thing is not to let it become moribund - it must be open to regular review and amendment.

5.0 Defining disabled people

5.1 Summary of the social model of disability

As the Act encourages organisations to make 'reasonable adjustments' to the built environment, service delivery and work practices, it will be useful to think of disability as a social, not a medical, issue. For the sake of simplicity the two models of disability discussed in section 3 can be summarised as follows:

1. A person with an impairment is disabled by that impairment - the medical model.
2. People with impairments are disabled by social, or attitudinal or physical barriers - the social model.

5.2 Definition of a disabled person

The Disability Discrimination Act uses a medical model and relies on complex measurements of impairment and functional limitation to determine who can and who cannot seek the protection of the law. Whilst this may be considered appropriate for political and legislative purposes, it is of little practical use to disabled people or to local authorities faced with the task of implementing the Act. Therefore, it is strongly advised that the social model be adopted by policy makers.

A manager will not really need to know the extent to which a person's impairment has an adverse effect on their walking, hearing, seeing and thinking etc. All a manager needs to know is if there are barriers which prevent the employee from working to the best of her or his abilities. A manager cannot be expected to do anything about impairments (she or he cannot cure them or make them go away), but they will be expected to make reasonable adjustments to remove disabling barriers.

Local Authorities should not waste time therefore, developing elaborate and potentially embarrassing methods of measuring impairment to establish who is or is not a disabled person in terms of the Act. It is our belief that a good employer can ignore the definition of disability given in the Act without any detriment to her or him.

Once a manager has determined, in consultation with an individual, if any how organisational barriers disable her or him then that individual should be recognised as a disabled person. Their personnel file may formally record this.

This approach allows people to self-define themselves, rather than the local authority classifying and stereotyping them as having physiological or psychological abnormalities. A similar approach can apply to service users who require access to services under the terms of the Act.

5.3 Countering arguments against the social model

Employers may argue that they need to prove that an individual has an impairment because that individual may falsely claim to have an impairment in order to achieve some personal benefit (for example, the removal of some unfavoured tasks from a job description; or, the provision of a designated car parking bay). In short, an individual may claim that as she/he has an Impairment she/he has a right to have adjustments made.

The answer to this lies not in proving the existence of an impairment but in identifying the disabling aspect(s) of the job or workplace, for, as we have shown, an impairment in itself does not disable people and therefore cannot require adjustments to be made. Rather, adjustments will only have to be made if the person with the impairment is disabled by some identifiable aspect(s) of their job or workplace and if the requested adjustments would remove such disabling effects. (That is, what In the Act is referred to as the extent to which making the adjustment 'would prevent the effect in question' see Paragraph 4.3 in Section 4 of this Booklet). In social model terms, it will be difficult for a non-disabled person to convincingly argue for adjustments to be made if they have no direct experience of the specific disabling effects of those aspects of their job or workplace and no direct experience of similar disabling effects in other areas of their job or workplace or in other contexts.

When disabling barriers are identified in this way then individual requests for adjustments can be addressed using your Authority's strategic plan for the removal of disabling barriers (see Paragraph 3 above).

Similarly, employers may argue that they need to know the 'severity' of an Individual's impairment to determine whether or not they have to make an adjustment. But, as above, we would suggest that this is an unwise approach because the degree or extent of impairment is not the issue; the issue is the relationship between the person with the impairment and the social and physical environment. The 'level' or 'severity' of disability does not stem from an impairment but from the extent to which the difference it creates is accommodated. For example, on the one hand, a person with 'minor' impairment, say, a skin blemish, will be very severely disabled if she or he is prevented from carrying out their job because of harassment.

On the other hand, a person with a 'major' impairment, such as a spinal injury, will not be disabled if they work in a fully accessible environment wherein the required job performance measures are adjusted to take into account their physical requirements..

6.0 Who should be Involved In the policy making process?

6.1 Knowledge of disabling barriers

As a result of political action by groups of disabled people the onus is shifting from disabled people having to adjust to society, towards society adjusting to disabled people. This change could usefully be reinforced by directing the focus of "reasonable adjustments" at organisational structures and practices rather than at disabled individuals. In order to identify disabling barriers and develop a long term strategy for removing them, the following factors will have to be considered:

- the political commitment to develop a strategy,
- the financial and human resources available, and
- the method and extent to which service and employment practices will need to be adjusted.

These are organisational Issues which will involve officers from all areas of the organisation; they are not the sole responsibility of specialist disability officers.

6.2 A mix of expertise

One way of identifying who should be involved in developing and implementing a strategy for removing disabling barriers is to identify the knowledge and experience required. Broadly speaking there are three types of knowledge available to your Authority:

Personal

Personal knowledge of disability, that is, knowledge gained from having an impairment and experiencing disabling barriers.

Moral or political knowledge of disability involves an understanding of how and to what extent people with impairments are disabled by social organisation; and an understanding of the political processes required to bring about equality.

Professional/Technical

Professional or technical knowledge involves an understanding of those aspects of social organisation which can disable people with impairments. For example, managers may have a knowledge of disabling policies and the practical alternatives that can be employed to remove or reduce the disabling effects of such policies. Architects and engineers may have the knowledge to remove physical disabling barriers in the built environment - once they have been identified by disabled people.

It is crucial to ensure all three types of knowledge are represented in any policy making forum. Of course, in reality the different types of knowledge are not in neat packages, for instance, a disabled manager may possess both personal and professional/technical knowledge.

However, once the people with the requisite knowledge have been identified the art is to ensure clear communication between all those involved. One way of achieving such communication is to ensure that everyone is using the same model of disability - that they are all talking about the same thing.

7.0 How to Involve disabled people

The question is no longer "should we involve disabled people in the policy making process?"; but "how do we involve - who do we involve and when do we involve disabled people in the process?"

7.1 Mistakes to avoid

In the past the desire of some organisations to involve disabled people has taken precedence over the practical realities. There have been instances where lengthy and complex documents were sent out to groups of disabled people for their comments, where the recipients did not have the opportunity to understand how the policies fitted into their lives. There have been consultation exercises where those consulted have wanted to change the whole basis of the approach but because the bulk of the work had already been done they were not given the opportunity. Also there have been many instances of disabled employees being asked to comment on policies, not because they were directly or indirectly interested in those particular policies but simply because they were token disabled people.

To avoid these problems, identify the aims and objectives of your consultation, and, list the broad areas of experience and knowledge you will need before you decide which disabled people you approach. When considering who to involve you must recognise that:

- Having an impairment does not automatically bring with it knowledge of the social model of disability. Also the range of physical, sensory and intellectual impairments are vast and consequently individual personal experience on its own will only cover some elements of disabling social barriers.
- Equally, having an impairment does not automatically give someone an affinity with other disabled people or an ambition to work on disability policies.

7.2 Proper consultation needs resources

The key principle of any effective consultation is that it cannot happen without resources; and therefore all requests by a local authority for assistance from groups of disabled people should be accompanied by offers of appropriate support. For example., general invitations to open public meetings should be accompanied by offers of free accessible transport and British Sign Language interpreters; and, organisations of disabled people asked to undertake detailed policy work should be reimbursed for the time spent and materials used.

7.3 Stages of consultation

Who you choose to consult with depends to some extent on when you intend to consult. Consultation can be broken down into the following three stages.

Stage one

At the very beginning of the process you will need to decide which areas of your Authority's work need a new policy or a policy revision. At this stage gut feelings and personal experience of the Authority will be the determining factors, and therefore, consultation with as many groups of disabled people as possible will be desirable.

NOTE: groups of disabled people are those groups which are controlled by disabled people; not those groups controlled by non-disabled people for disabled people.

Stage two

Once a policy area has been decided upon it then becomes a more technical issue. and you will need to identify clearly the knowledge and skills required.

Whilst we accept that being disabled is not an essential requirement for each and every policy maker we believe that it is essential to have some *disabled policy makers*. *Groups of disabled people both outside and inside* the organisation can assist with this because they will have a collective general experience of many disabling environments and may have a great deal of professional/technical knowledge of potential solutions.

Stage three

Finally, to evaluate the scheme you need to go back to the broad spectrum of service users to get their views.

8.0 Do your policies disable people?

Many local authorities will be aware of certain disabling barriers; for example, they will be aware that steps disable wheelchair users; that a reliance on printed materials disables blind people; that complicated instructions disable people with learning difficulties and that stereotypes disable people with impairments generally.

However, if the legislation is to be implemented to best effect attention must be paid to the more covert and indirect disabling assumptions which underpin many policies and practices. Local authorities usually standardise the ways in which employees work, and the ways in which customers are allocated services. Elected Members can then be reasonably certain that things happen in an appropriate, legal and equitable way - that people with similar needs and obligations are treated in the same or similar ways.

Policies do this by:

- apportioning responsibilities,
- providing information, and,
- establishing eligibility criteria for services or employee benefits.

Section 6: Recruitment and Selection

1.0 Introduction

This section is designed to illustrate how you can apply elements of the Disability Discrimination Act in practice using the social model of disability. Adopting these measures will help you meet the Equality Standards outlined in section 7 for this crucial area of Local Authority activity.

2.0 Accommodating difference in a systematic way

As we have shown in sections 4 the duty to make "adjustments" is owed to individual disabled people as and when the need arises, thus there is no general duty to make adjustments. However, as we have shown in section 5, in order to protect the rights of individual disabled people in an effective and efficient manner a local authority will need to have a strategic plan for the removal of disabling barriers. Therefore, when considering Recruitment and Selection in the context of the Disability Discrimination Act you will need to arrive at a balance between accommodating the specific requirements of individual disabled people, and your Authority's corporate strategy for implementing the Act. In short, you must seek to accommodate difference in a systematic way.

This requirement for flexibility should not be seen in isolation. Local government has had to tackle many organisational changes over the last two decades, not least, Compulsory Competitive Tendering; the 'Purchaser/ Provider split' advocated by the National Health Service and Community Care Act; Performance Indicators and Local Management of Schools; sadly, all in a context of diminishing resources. In adapting to these changes local authorities have also addressed flexi-time working, for example, job share; home working; secondments; extended leave for religious festivals and pilgrimages; positive action training. Therefore, the Disability Discrimination Act should be seen a continuation of these organisational processes.

3.0 Advice and Guidance

As a minimum measure a local authority should produce guidance for officers involved in recruitment on: the Disability Discrimination Act; the social model of disability; and where to find advice and assistance. The organisation should also aim to analyse Disability Equality Training needs, either as part of recruitment and selection training or in the context of the full range of policy issues.

4.0 Flexibility in the recruitment process

4.1 Reasonable adjustments

Many local authorities have been using standardised recruitment practices based on measuring candidates against fixed criteria for some time. Generally, the duties and tasks of a Job are reviewed; a Job Description is produced and finally a Person Specification is developed to record the skills, knowledge, experience and qualifications required. All candidates are then measured against those criteria to assess suitability.

The Disability Discrimination Act requires a more flexible approach. In that, the tasks of a given job, how they are performed and by whom are deemed to be "adjustable". The Act requires an employer to make "reasonable adjustments" to working arrangements or environments to remove or reduce disabling barriers. The following are examples of actions listed in the Act which an employer may have to take:

- a) making adjustments to premises (for example, widening doors or installing visible fire alarms, though regulations may limit this obligation where Building Regulations have been complied with)
- b) allocating some of the disabled person's duties to another person
- c) transferring her/him to fill an existing vacancy (a moderately common practice in well developed Retention and Redeployment policies)
- d) altering her/his working hours
- e) assigning her/him to a different place of work (For example, same job, different office)
- f) allowing her/him to be absent during working hours for rehabilitation, assessment or treatment
- g) giving or arranging training (presumably, specific training on issues such as working with a personal assistant)
- h) acquiring or modifying equipment

- i) modifying instructions or reference manuals (for example, by making them more accessible by either changing the format, to say, braille or tape; or, by rewriting them in plain language)

4.2 Access to Work

This scheme would be the ideal way of supporting local authorities in making reasonable adjustments. Under this Government scheme, disabled people could apply for up to £21,000 worth of assistance over 5 years. This money was available via job centres, for people in or seeking work. It could be used to fund a variety of things. For example:

- Equipment
- A support worker
- An adaptation to the building, for example, the provision of an accessible toilet (Note: if your Authority will get any general benefit for other users of the building from such adaptation, you will be required to part fund the initiative)
- Assistance towards the cost of travelling to work or adapting a vehicle.

Unfortunately at the time of writing the Government have restricted access to the scheme and only people who have been unemployed for 4 weeks or longer are eligible to apply for funding until April 1996.

The scheme is under review and if this current policy is continued it could seriously damage the employment prospects for many disabled people and it will be necessary for Councils to put pressure on the Government to reinstate the full scheme in 1996/97.

4.3 Supported Employment

The Supported Employment Scheme can be seen as an 'output' adjustment. That is, the scheme allows an employer to be reimbursed for a given percentage of a disabled employee's reduced output; where such reduced output is a result of the impossibility of removing disabling barriers.

4.4 Job analysis, job description and employee specification

Job analysis

Although in a strict legal sense the provisions of the Act only come in once an individual has indicated that she or he wishes to be considered for a particular post, it is crucial to bare in mind the possibility of adjustment right from the very beginning of the recruitment and selection process. One way of doing this is to analyse the job closely before drawing up a job description and employee specification to ensure that they do not contain unnecessary tasks and skills requirements.

For example, if a particular job has in the past included as a task "*driving* from location x to location y', when analysed it may be discovered that it is possible for the task to be effectively carried out via public transport. Therefore the task could be described as "*travelling* from location x to location y'. If such options are not considered at this stage the inclusion of driving as task and skill requirements may unnecessarily preclude blind or partially sighted people from applying for the vacancy when the post is advertised. However, it is impossible to identify at the job analysis stage which aspects of the job may disable a post holder with an impairment, as the relationship between impairment and job will be specific to the individual concerned.

Job description and employee specification

Even though adjustments can be made to each and every aspect of job descriptions and employee specifications it is vitally important to describe the job and the skills knowledge and experience required as accurately as possible, for it is only by knowing what the job is in the first place that the cost and practicality of adjustments can be measured.

Medical criteria

Do not introduce selection criteria such as "must be in good health". Health is not an issue to be considered when devising employee specifications. Your organisation should have separate procedures for meeting any medical requirements imposed by Health and Safety legislation. Remember in most jobs technique is more important than strength where lifting, climbing and other 'physical' activities are involved. Consequently all such 'physical' requirements are in fact practical skills. When devising skills criteria of this type, be precise and state exactly what will be required of the post holder. This will prepare the ground for considering reasonable adjustments.

In short, consider carefully how jobs are analysed and described; and skills, knowledge and experience are expressed; and above all - be prepared to consider reasonable adjustments at any stage in the recruitment process.

5.0 Advertising

Aim to advertise all vacancies as widely as possible. Restricting vacancies unnecessarily will, inevitably reduce the ability of disabled people to take advantage of the opportunity.

Advertisements must not suggest that a non-disabled person is preferred. Additionally you may not be able to advertise for disabled people only or offer priority interviews (unless experience of disability is a genuine requirement of the post, for example, in the case of an Access Officer's job).

Some local authorities target disabled people and raise the profile of their policies by using the disability press. For example, "Disability Now" (a monthly publication) often carries vacancies, especially where direct personal experience of disability would be an advantage. Many Councils also seek to encourage applications from disabled people by using positive statements on advertisements. For example, "Disabled people are particularly invited to apply as they are under-represented in this areas of work." However, some local authorities believe that the additional money spent on targeted advertising and equal opportunities statements' could be better spent on providing standard recruitment advertisements and information in accessible formats, such as tape and braille.

6.0 Application Forms and Information for Candidates

Applicants with impairments must not be disabled by inaccessible recruitment information when applying for vacancies. To avoid this it will be necessary to prepare application forms and other information such as job descriptions in appropriate formats and to provide a Text phone link for hearing impaired people.

6.1 Alternative formats

To encourage people to apply for vacancies, your application forms should be in plain language. Large print, Braille or Tape versions should also be made available. (You can arrange to have your forms converted into different formats and your local organisations of blind or partially sighted people should be able to advise you on where the best service can be provided.) You may also find that a neighbouring Council has an in-house service you could use.

Bear in mind if you provide alternative formats you must also be able to receive information in those formats.

6.2 Using a Minicom or TypeTalk

Aim to install a Minicom (a device which transmits text rather than speech) to enable deaf people to apply for your vacancies. Alternatively¹ register with TypeTalk. This is a national telephone relay service, which connects deaf 1 hard of hearing or speech impaired Minicom users with hearing telephone users via a national switchboard. The operator receives the text message and conveys this to the hearing person and visa versa. It is free to register and by using TypeTalk you do not need a Minicom in the recruitment office.

6.3 Identifying Disabled People

Your application form should have a section that asks "Do you consider yourself to be a disabled person". In addition you could also ask a further question "If you have any specific requirements to enable you to attend an interview, please detail them and we will make the necessary arrangements for example, a loop system, a sign language interpreter, wheelchair access".

Information about the Council's commitment to ensure disabled people receive fair treatment and that adjustments will be considered should also be included in information sent to applicants.

7.0 Shortlisting

The Act requires "reasonable adjustments" to be made. Therefore, it will be unlawful to not to shortlist an otherwise suitable candidate because she/he may be prevented from carrying out the full range of duties by disabling barriers. For example, if one of the tasks given in an administrative Job Description requires the post holder to work with files stored in a basement area with only stepped access, it may not be unreasonable for those duties to be carried out by another officer if the potential applicant was a wheelchair user.

8.0 Interviewing

8.1 Access

Invitations to interview should give details about access to the interview venue. As a minimum you should invite the applicant to contact you if they have any specific requirements. You must ensure that disabled candidates are not substantially disadvantaged by any interview arrangements.

You should give consideration to the accessibility of the interview venue, for example, is there a loop system for hearing aid users? Will there be a problem with sunlight or traffic noise? etc.

If your Authority has not already got an access policy, consideration should be given to this rather than responding to ad hoc requests.

8.2 Questions

To avoid disabling candidates with impairments you must not discuss a person's impairment during the selection process via questions such as "... can you tell me how you control your diabetes?" Questions should be concerned only with the job and the candidate's skills and experience required to carry out the tasks. It is possible, however, that a candidate may be aware of disabling barriers in the work place and will want to explore reasonable adjustments to the job. In these circumstances it will be reasonable to discuss alternative ways of doing the job; but it will be wise emphasise that the selection decision will not be influenced by the extent of the adjustments.

8.3 Occupational/Psychometric Testing

Any tests used must be applied by employees accredited by the British Psychological Society and they must be Nationally recognised tests which have been checked for validity and bias. Any tests used must actually test the specific skills required by the post.

If a disabled person is on the short list, you must check that they will be able to participate fully in the test and that they will not be disabled by the test format, for example, spoken instructions may disadvantage a hearing impaired person; A written test may disable a blind person. You must make adjustments to the tests to enable all candidates to participate. Or, find an alternative method of assessment which does not disable candidates with impairments. Under no circumstances should you target disabled candidates for specific tests regarding their impairments or functional limitations.

9.0 Making a selection decision

When a disabled applicant successfully meets the skills, knowledge and experience criteria specified in the employee specification a formal job offer should be made. The offer should be conditional upon the Council's ability to make the necessary adjustments.

10.0 Example positive action and employment initiatives

10.1 Specific initiatives

Derby City council encourages disabled people to apply to go on a Job 'Seekers Register'. The aim of the Register is to help and support local disabled people looking for a job with the Council. People receive regular vacancy lists; help with completing application forms; advice on how to 'sell' themselves, and guidance with interview skills. People on the register are also guaranteed an interview if they meet the essential criteria for a vacancy. If requested the Assistant Equality Advisor sits in on the interview to give feedback.

Leeds City Council hold an annual "Disability Employment Roadshow". All employing Departments attend and advise on vacancies within their areas and encourage disabled people to apply. (In the past vacancies have also been restricted to disabled people only in the first instance). They have sign language interpreters and officers on hand to give benefits and training advice. The event has successfully enabled a large number of disabled people to gain employment and training.

Chesterfield Borough Council took positive action when they engaged a hearing impaired person. To ensure communication problems were avoided they provided all her immediate colleagues with deaf equality training before she took up her post. They also arranged for some office moves to ensure that she was able to undertake her work effectively.

Barnsley Metropolitan Borough Council have established a ~ project which is designed to assist disabled people seeking work. By liaising with employers and supporting and guiding disabled people₃ the project has successfully helped many people gain and retain employment with a variety of employers.

Bradford City Council offers disabled people an interview at minimum essential criteria and monitors appointments to ensure disabled people are considered.

10.2 Positive Action Training

Due to disabling barriers, people with impairments have been at a disadvantage in the job market. Denied opportunities, they often lack confidence in their abilities and have had less chance to gain key skills. So, many Councils have established training courses, often linked to placements₃ to enable disabled people to build their confidence and the range of skills they can offer.

10.3 Disability Equality Training

Any positive action initiatives introduced should be accompanied by Disability Equality Training to ensure that they are not undermined by negative attitudes and actions. Such disability training must be carried out by suitably qualified disabled trainers.

11.0 Monitoring

To ensure your Council is not disabling people and to gather data to assist in future policy development, you should introduce monitoring arrangements. Application forms should request that candidates indicate whether they consider themselves to be disabled. You can then use this data as a base from which to undertake a full analysis of recruitment activity to assess areas where your Council could remove disabling barriers and increase opportunities.

11.1 Setting Targets

Many Councils set objectives to bring about improvement in their recruitment and selection processes. Quotas will shortly be illegal, but attainable targets can be set to assess success. Manchester City Council set a target of 9.2% based on an independent survey of the number of adults in the working population who considered themselves to be disabled people.

Census figures will tell you how many people in your locality consider themselves to have an impairment (which is defined as a "long-term limiting illness"), and although this information does not give an accurate assessment of the extent of disabling social barriers, it will give an indication of the number of people likely to be disabled in the job market.

Experience suggests that you should aim to set realistic, achievable targets for a given time scale and regularly review reasons for progress or lack of progress.

11.2 Complaints

All Councils should have a well publicised recruitment / equality complaints procedure to enable individual concerns about recruitment and selection processes to be raised.

Section 7: Disability Equality Standards

1.0 Introduction

In February 1995, the Commission for Racial Equality (ORE) published a document entitled "Racial Equality Means Quality" which sets out standards for racial equality for Local Government in England and Wales. As of March 1996 sixty Local Authorities have adopted the standard.

The CRE outlined the case for action on racial equality. They devised the Standards to link in closely with relevant legislation on racial equality. They also highlighted the positive benefits of implementing the Standards as: enhancing local democracy and accountability; enhancing customer satisfaction; understanding customer needs; using people's talents to the full; becoming an "employer of choice", enhancing partnership with the Private Sector; enhancing the relationship with central government; avoiding the cost of discrimination.

The CRE also provide a checklist for Local Authorities to determine how successful their policies have been in terms of Commitment₁ Action and Outcomes to equal opportunities. This checklist gives indicators which Local Authorities can use under each of these three headings to assess the success of their current policies and to give indicators of measures which they can take to improve the current standing.

The Northern Officer Group believe the approach adopted by the CRE is an extremely positive and useful way forward in the development of policies and standards for Local Authorities to take in relation to equal opportunities. We have therefore based our standards on the model created by the CRE but have modified it to address specific issues relating to disabled people.

The following checklist and measurements should be used for Local Authorities to identify action which they can take to ensure that their policies and practice on disability issues do not discriminate against disabled employees or disabled people in the community.

The Commission for Racial Equality's "**Standard for Racial Equality for Local Government in England and Wales**" is available from:

Central Books
99 Waillis Road
London
E9 5LN Tel. (0181) 9864854

Checklist

Local Authorities should be able to demonstrate:

- COMMITMENT
- ACTION
- OUTCOMES

COMMITMENT

- Does the local authority have the following?
- A written disability equality policy clearly linked to the authority's Direction Statement, and which reflects the Northern Officer Group Standards.
- A members' committee at corporate and/or departmental level with overall responsibility for disability equality policy implementation.
- A high public profile for that policy.
- An action or implementation plan covering:
 - + Senior Management's role.
 - + Responsibilities and resources.
 - + Desired outcomes and targets.
 - + Timetables and time scales.
 - + Methods for measuring progress.
 - + Methods for consultation with employees and service users.
- Regular communication and publicity of the policy and action plan to:
 - + Employees.
 - + Applicants for jobs, advice and grants.
 - + Service users.
 - + Suppliers of goods and services.
 - + Recognised consultative forums.
 - + The public.

ACTION

Internal

Does the local authority do the following?

Collect Information relating to disabled people on:

- All aspects of its personnel practice.
- Staff in post.
- Applicants for jobs, promotion and training.
- The population it serves.
- Its service users.
- Applicants and those tendering for business contracts. the information to:

*****112
- Establish norms against which to measure performance and targets.
- Identify shortfalls in service provision and delivery₃ and the reasons for these.
- Feed these data into a review procedure.
- Improve performance.

Review In detail:

AS AN EMPLOYER:

- Recruitment and all personnel functions.
- Job criteria, against the requirement of the job.
- Staff selection methods₁ including tests, against required performance.

- Training needs.
- Promotion routes and procedures.

AS A PURCHASER AND PROVIDER OF GOODS AND SERVICES;

- Provisions ensuring that disabled people led businesses have equal opportunity to compete for contracts.
- Disability equality standards for contracted out service delivery.
- Disability equality standards for contractors.

IN COMMUNITY OUTREACH AND MARKETING PLANS:

- Action plans, including targets and objectives designed to improve outcomes.

Train and educate:

- All staff in the effective implementation of the action plan, including:
 - + Managers.
 - + Personnel and equal opportunities staff.
 - + Recruitment and selection personnel.
 - + Trainers.
 - + Service delivery staff.
 - + Customer care staff.

Develop the potential of disabled staff, particularly where under-represented, including action such as:

- Mentoring schemes.
- Shadowing schemes.
- Networking.
- Training to enable disabled staff to apply for work in particular areas of jobs, or at particular grades₃ where the Disability Discrimination Act allows "positive action".

External

Does the local authority do the following:

Reach out to the community and service users, and build partnerships, including:

- Providing work experience opportunities.
- Co-operating with other employers in developing and sharing good practice, including participating in local employers' equal opportunities networks.
- initiating or participating and pre-employment training schemes.
- Providing staff, and other resources to community groups.
- Encouraging suitably qualified disabled person led businesses to tender for the supply of goods or services.
- Requiring organisations on contracts to achieve minimum disability equality standards.
- Sponsoring community projects with a disability equality dimension.
- Offering equal access to financial support for disabled person's voluntary sector.
- Promoting awareness of the local authority's disability equality policies, to develop accountability to those it serves.
- Providing a comprehensive service for the provision of accessible information.
- Reviewing the appropriateness of all service provision.

OUTCOMES

Has the local authority been able to demonstrate outcomes through procedures and action such as the following?

AS AN EMPLOYER BY SHOWING.

- Improved representation of disabled people at all levels.
- A broader skills and experience base in the workforce.
- Improved employee understanding of relevant disability equality issues.
- Greater commitment from disabled staff.
- An enhanced reputation as an equal opportunities employer.
- Increased output and productivity as disability harassment is tackled effectively.
- Staff are comfortable with, and clear about, their rights and responsibilities.

AS A PROVIDER OF SERVICES BY SHOWING:

- that service users fairly reflect the composition of disabled people in the local population.
- Increased level of disabled person's customer satisfaction.
- Increased levels of support from the local community.
- Favourable publicity from the media, disability organisations etc.

Outcomes

Some Indicators

Disabled Person's Equality Area I. - Policy and Planning

1. All employees, service users, contractors and organisations which come into contact with the local authority are aware of its equality action programme for disabled people.
2. The internal consultation process ensure that all employees are informed of the value of equal opportunity, and are committed to that policy.
3. The local authority is able to evaluate progress towards achievement of its equality objectives for disabled people.

STANDARDS FOR EQUALITY

Disability Equality - Area i - Policy and Planning

Level	Indicator	Action Required
1	<ul style="list-style-type: none"> + Establish written corporate and department policies based on the social model of disability, endorsed by members and senior officers. + Ensure that the written policy is in line with the Disability Discrimination Act 1995 and relevant Codes of Practice. 	
2	<ul style="list-style-type: none"> + Endorse an action plan, flowing from policy, at corporate and department level. + Ensure that the action plan requires systematic activity to identify and remove disabling barriers within all departments. + Set up a defined organisational structure, with resources for policy implementation and review. + Consult staff and service users on content of policy. + Use relevant external data (for example, the Census, work force disabled person's profiles, consumer surveys, etc.) to inform policy. + Establish disability monitoring systems. 	
3	<ul style="list-style-type: none"> + Feed results of consultation with employees and service users into review and targeting. + Define equality targets or outcomes that are specific, measurable, realistic and timetabled. + Report monitoring of targets to a policy review mechanism. + Extend the policy and monitoring systems to suppliers of services through the contracting procedure. + Deliver management training programmes to reinforce commitment to, and the effectiveness of, the policy. + Make provision in the equality policy for the needs of disabled people who may simultaneously be discriminated against on grounds such as sex, age, 	

- ethnicity, sexual orientation etc.
- 4
 - + Build 'equality for disabled people' objectives into the job descriptions and performance indicators of senior management, and ensure these are subject to the standard appraisal process.
 - + Analyse monitoring reports regularly and change practices, demonstrable outcomes and review plans as necessary.
 - + Publicise the policy and its success, internally and externally.
 - + Feed regular reports on progress into members' committees, for review and targeting.
 - + Use an appropriate, independent mechanism for assessing the effectiveness of policy implementation, as part of the policy review.

 - 5
 - + Build disability equality objectives into the job description and performance indicators of all managerial staff and ensure these are subject to standard appraisal process.
 - + Act as an exemplar of equality for disabled people in local government, share experiences with other local authorities, and provide support for them in the development of their own policy and practice.
 - + Build and support disability equality networks with other local authorities at regional, national and international level.

Outcomes

Some Indicators

Disabled Person's Equality - Area ii. - Service Delivery and Customer Care

1. The local authority's position on equality for disabled people is clear to all service users and organisations with contracts, or seeking contracts.
2. Staff in all service delivery directorates are clear on the policy and the action needed to implement it.
3. The consultation process leads to greater satisfaction with the local authority's services from all sections of the community.
4. Members of the public are aware that breach of the policy will be met with action from the authority.

STANDARDS FOR EQUALITY

Disability Equality - Area ii - Service Delivery and Customer Care

<u>Level</u>	<u>Indicator</u>	<u>Action Required</u>
1	<ul style="list-style-type: none"> + Establish a written policy on disability equality based on the Social Model of Disability for individual service delivery departments₁ endorsed by relevant committee chairs and senior officers. + The written policy reflects the corporate disability equality policy, and complies with the Disability Discrimination Act and relevant Codes of Practice. + The policy has been the subject of consultation with service users. 	
2	<ul style="list-style-type: none"> + Members and senior officers endorse an action plan flowing from the policy. + The action plan requires systematic activity to identify and remove disabling barriers in all sections of the department. + Set up a defined structure of responsibility for disability equality of opportunity within the department. + Establish disability monitoring of the take up of a core set of services as a standard procedure. + Develop and use a consultative machinery to establish the needs and satisfactory levels of disabled service users. + Provide appropriate information services to enable disabled service users to have full access to all services. + Contracts with agencies delivering services on behalf of the local authority include a requirement to deliver an effective and appropriate service, fairly and without unlawful discrimination. + Ensure that staff delivering services are trained to provide an appropriate and informed response to all service users without unlawful discrimination against disabled people. 	
3	<ul style="list-style-type: none"> + Disability monitoring of the take up of all services 	

- becomes a standard procedure.
 - + Use disability data to feed into policy review and targeting.
 - + Monitor the effectiveness of community consultation on influencing service delivery.
 - + Plan services annually and on a long term basis, using disability demographic data from the Census to establish targets.
 - + Set up a procedure for reviewing the implications for disabled service users of all decisions to increase, decrease or reallocate funding.
 - + Use this procedure to take into account the requirements of disabled service users when new services are planned.
 - + Use this procedure to consult relevant organisations of disabled people on the suitability of service provision.
 - + The job description and contract for local authority service delivery staff include the delivery of effective and appropriate service to disabled service users, fairly and without unlawful discrimination.
 - + Establish and publicise the local authority mechanism for dealing with complaints of discrimination of disabled people against itself from members of the public.
 - + Ensure that staff training in disability equality is formally linked to performance measurements.
- 4
- + Build disability equality objectives into the job description and performance indicators of senior management, and ensure these are subject to the standard appraisal process.
 - + Departments make full use of external funding (European funding) to maximise appropriate service delivery.
 - + Monitor the allocation of financial resources to assess the impact on services to disabled people.
 - + Report progress on the action plan regularly to Department Members Committee, which feeds back into review and targets.
- 5
- + Build disability equality objectives into the job description and performance indicators of all managerial staff, and ensure these are subject to the standard appraisal process.
 - + Departments become exemplars of equality of opportunity in their particular field, share their experience with similar departments in other local authorities, and provide support for them

- in the development of their own good practice.
- + Build and support disability equality networks with other local authorities, at regional, national and international level.

Outcomes

Some Indicators

Disabled Person's Equality - Area iii. - Community Development

1. Community participation in the democratic process and structures of the local authority increases.
2. The proportion of the population able to vote increases.
3. There is greater involvement of disabled people in the voluntary sector in the work of the authority.
4. Take up of council services widens across all sections of the community.
5. The requirements of disabled people are systematically built into funding and development planning.

STANDARDS FOR EQUALITY

Disability Equality - Area iii - Community Development

<u>Level</u>	<u>Indicator</u>	<u>Action Required</u>
1	<ul style="list-style-type: none"> + The local authority states that its goal is to support the full integration of disabled people, free from direct or indirect unlawful discrimination, through adoption and understanding of the social model of disability + Take account of the present and future needs of disabled people in making a corporate assessment of community needs. + Corporate and department level disability equality policies and action plans help guide this process. + Make a funding commitment to organisations controlled by disabled people in the voluntary sector. 	
2	<ul style="list-style-type: none"> + Translate advertisements, leaflets, videos, etc. giving information about services and democratic structures and participation. into appropriate formats e.g. Braille, Large Print, BSL and plain English. + Recognise that organisations controlled by disabled people in the voluntary sector are a key strategic partner in development and regeneration planning and programming. + Make full use of the SRB and European Funding to pursue equality objectives in regeneration and planning programmes. + Set up mechanisms to ensure that planning applications, licensing and other control and planning processes take place within a context that favours community development, and takes account of disabled people's requirements within that. + Establish mechanisms for responding to direct and indirect discrimination of disabled people. 	
3	<ul style="list-style-type: none"> + Set standards across the authority for the provision 	

- of a accessible information service.
 - + Establish a mechanism to measure and review the quality of information services purchased from outside agencies.
 - + Provide information and training for disabled people's organisations on the decision making process and how to use and gain access.
 - + Take specific steps to ensure that disabled people have full and equal access to the electoral register and ensure that polling stations are accessible.
 - + Publicise mechanisms and methods for responding to instances of direct discrimination where disabled people are denied access to licensed premises or licensed taxis
 - + Set up a formal mechanism to consult with disabled people and their organisations.
 - + Regularly review the criteria for funding the voluntary sector to ensure they do not discriminate against disabled people's organisations.
- 4
- + Monitor instances of discrimination to inform resource allocation and policy development.
 - + Departments demonstrate how consultation with disabled people's organisations has shaped major policy development and resource allocation.
- 5 **If in receipt of Single Regeneration Budget:**
- + Plan a strategic response to a diminishing government grant.
 - + Draw up the bid in partnership with the local disabled people's organisations in the voluntary sector and through the formal consultative mechanism with disabled people.
 - + Plan a strategic approach designed to encourage the full integration of disabled people into the mainstream of community life.
 - + If in receipt of SRB, monitor the effect of all aspects of SRB, expenditure on disabled people, and feed that into the next round of bidding.
 - + Involve disabled people's organisations in this monitoring.
 - + Require each department to identify how Its policies can contribute to community development,

- and the requirements of disabled people within that.
- + Include objectives on community development for disabled people in performance indicators for senior managers in all departments.
 - + Build and support disability equality networks with other local authorities at regional, national and international level.

Outcomes

Some Indicators

Disabled Person's Equality - Area iv (a) - Employment (Recruitment and Selection)

1. Applicants are drawn from a better, wider pool, with greater opportunity for disabled people to apply for promotion, and for individuals in under represented groups to compete on equal terms.
2. Managers and staff think more clearly about job and skill requirements.
3. Selection decisions are more cost-effective as they result in lower rates of staff turnover.
4. Efficiency increases as recruitment procedure improves the match of applicants' skills to the needs of particular jobs.
5. Fewer supportable complaints about unfair recruitment.

STANDARDS FOR EQUALITY

Disability Equality - Area iv(a) - Employment (Recruitment and Selection)

Level	Indicator	Action Required
1	<ul style="list-style-type: none"> + Make clear to recruiters and selectors the need for non-disabling practices. + Avoid restricting publicity for vacancies and opportunities to sources which would provide a narrow range of applicants. + use a well-designed, standard application form, available in a number of formats. + Ensure that Job descriptions and selection criteria are clear and explicit. + Make all procedures comply with Disability Discrimination Act 	
2	<ul style="list-style-type: none"> + Take steps to encourage disabled applicants in areas where they are under represented. + Ensure that information for applicants is potentially available in different formats. + Ensure that adverts are placed where disabled people are most likely to see them. + Set up mechanisms for collecting data on disabled applicants and recruits. + Give detailed guidance and training to shortlisting panels, interviewers etc. on: <ul style="list-style-type: none"> • the Social model of disability including definitions of 'disability' and 'disabled person'. • on the duty of employer to make adjustments. • guaranteed interview schemes. + Ensure that recruiters are aware of 'Access To Work', 'PACTs' etc. + Avoid the potential for bias in selection, for example asking candidates about their impairment. + Establish a policy for checking job descriptions to ensure that they are not disabling. + Ensure that mechanisms are in place for the provision of interpreters or facilitators at interviews. 	

- + Ensure that disabled applicants are not required to have a medical examination as a condition of securing employment if it is not necessary for the job they are applying for:
 - + Ensure that training courses I opportunities with the Local Authority are accessible to disabled people.
- 3
- + Analyse data on applications and appointments by grade, and use findings in the review process to establish targets.
 - + Take action to deal with causes of disparate impact, including:
 - basing selection tests on criteria which are empirically validated.
 - ensuring all candidates are well prepared for test taking, including adequate guidance and practice materials and training, if appropriate.
 - ensure that tests adequately reflect the needs of the post and do not disabled people with impairments.
- 4
- + Ensure that job descriptions and requirements are not restrictive.
 - + Make changes to selection measures, including biodata tests, where unjustified disparate impact is shown.
 - + Take additional steps to reach groups which are under-represented, including support for external positive action schemes.
 - + Set objectives for increasing the proportion of under-represented groups at senior levels.
- 5
- + Continually review and develop person specifications and applicant profiles to reflect the authority's overall approach
 - + Ensure there is an increased recruitment and selection of disabled staff against defined targets.

Outcomes

Some Indicators

Disabled Person's Equality - Area iv(b) - Employment (Developing and Retaining Staff)

1. There is increased opportunities for all staff to progress in the local authority.
2. Training budgets are used more effectively.
3. There is reduced levels of absenteeism.
4. Staff are more willing to contribute ideas and volunteer solutions.
5. There is better team-working.
6. Service delivery is improved.

STANDARDS FOR EQUALITY

Disability Equality - Area iv(b) - Employment (Developing and Retaining Staff)

<u>Level</u>	<u>Indicator</u>	<u>Action Required</u>
1	<ul style="list-style-type: none"> + Introduce the implications for employees of the equality policy for disabled people₁ and the Code of Practice in Employment of disabled people in Staff induction. + Inform new staff about established networks and support groups. + Incorporate equality for disabled people principles into training plans for all staff. 	
2	<ul style="list-style-type: none"> + Set up procedures that contribute to a fair and effective working environment, covering policies such as: <ul style="list-style-type: none"> • Grievance procedure • Disciplinary procedure • Protection against harassment and victimisation of disabled employees. • Training • Staff Appraisal • Religious and cultural needs. • Health and safety policies. + Consider adapting and using flexible working, part-time and job sharing agreements at all levels. + Ensure that leave arrangements recognise changing circumstances. + Consider the availability of job restructuring e.g. reallocation of non key tasks. + Provide a policy on job reviews to identify core tasks where retention is an issue. + Ensure that policies on redundancy or unfair dismissal do not disabled people with impairments. 	

- 3
- + Ensure that training and development initiatives are equally available to disabled employees.
 - + Ensure that promotion procedures are accessible and open to disabled people
 - + Provide training for managers on the detailed implementation of the disability equality programme, including individual action plans, with updates in light of legal and other developments.
 - + Meet specific training needs, where applicable, to develop particular skills.
 - + Provide development training as part of an overall plan to enhance skills for all groups.
 - + Use data on disabled people to monitor the numbers leaving the authority and ensure that the work force reflects the make up of the local community.
- 4
- + Set up schemes to support the particular needs of disabled staff as part of staff development, for example:
 - Mentoring
 - Shadowing
 - Self help networks and access to other relevant networks.
 - + Establish consultation mechanism to elicit feedback and ideas from staff, including disabled staff, on the programme.
 - + Include In line managers' appraisals evaluation of action taken to retain and develop disabled staff.
- 5
- + Recognise, and encourage, the involvement of employees In the wider community.
 - + Achieve higher retention and career progression rates for all disabled staff.
 - + Over time, ensure that fewer grievance and disciplinary actions are registered on disability equality grounds.

- + Ensure the local authority becomes an exemplar of good employment practice, sharing its experience and supporting other local authorities to develop their own good practice.
- + Build and support disability equality networks with other authorities at regional, national and International level.

Outcomes

Some Indicators

Disabled Person's Equality - Area V. - Marketing and Corporate Image)

1. All staff, and potential staff, are aware of the equality policy relating to disabled people.
2. Greater coverage of the local authority's policy in the media, including media aimed at disabled people.
3. Greater involvement of all sections of the community in local authority public events.
4. Community events are of direct relevance to a variety of disabled people.
5. The authority is seen as a standard setter for equality for disabled people.

STANDARDS FOR EQUALITY

Disability Equality - Area v - Marketing and Corporate Image

<u>Level</u>	<u>Indicator</u>	<u>Action Required</u>
1	<ul style="list-style-type: none"> + Provide the disability equality policy statement to all staff, applicants and new recruits. + Advise staff of the basic provisions of the Disability Discrimination Act and relevant Codes of Practice. + Draw out the implications of the disability equality policy In the staff handbook, recruitment literature and induction training. + Make clear the authorities commitment to the Social Model of Disability in advertisements, recruitment materials and procedures and staff training and counselling. 	
2	<ul style="list-style-type: none"> + Advertisements and recruitment literature positively reflect disability equality and diversity in text and Illustrations; they are checked for disability discriminatory criteria and unwelcoming images. + Inform external bodies, Including employment agencies consultants, and contractors of the policy and its requirements. + All staff receive literature advising them of their rights and responsibilities under the disability equality policy, for example, the duty not to discriminate, the right to be protected from harassment on the grounds of disability etc. + Provide guidance for key staff on the implications of the policy for selection training and management. + The authority's mission statement reflects the commitments of the disability equality policy. 	
3	<ul style="list-style-type: none"> + Promote successful disability equality work and policy implementation in the media. + Departmental Chief Officers take responsibility for disability equality commitment in Internal and external communications. 	

- + Use the disability media, as a matter of course, in placing advertisements and news coverage
 - + Draw out disability equality objectives in all quality assurance activity.
 - + All departments make full use of appropriate accessible information services.
 - + All authority-led public events reflect the policy in Involvement and publicity, ensuring that events are accessible to all.
- 4
- + The range of community events sponsored or funded by the authority reflect the commitments and values of the policy.
 - + Relate appraisal linked performance indicators for senior media and communications managers to promoting disability equality.
 - + Include In media work a strategy to promote the authority as a disability equality exemplar.
 - + Use recall surveys to assess success in promoting awareness of disability equality policy and activity.
- 5
- + Relate appraisal linked performance indicators for all media and communications staff to promoting disability equality.
 - + Feed in recall surveys to media and communications policy effectiveness review₁ and policy development.
 - + Involve appropriate disabled staff integrally at high profile public events.
 - + Chief Executive and Department heads act as "ambassadors" to promote disability equality objectives, and share good practice at external events, for example, local government conferences, media interviews, public statements etc.