

DISABILITY DISCRIMINATION ACT

Recent legislation introduced well-publicised responsibilities for owners of commercial premises to ensure amongst other things, easier access for the disabled.

The same legislation already places a responsibility on Directors of Residential Management Companies to ensure that there is not discrimination against disabled people wishing to rent or buy properties. For example, it is unlawful for those who manage premises to discriminate against a disabled person:

- in the way they permit a disabled person to use any benefits or facilities
- by refusing or deliberately not permitting the disabled person to use any benefits.

But subject to Royal Assent, new legislation due to come into force in December 2006, adds to the existing protection for disabled people by requiring a Controller of Premises (including Directors of Residential Management Companies) to make "reasonable adjustments" for disabled tenants and occupiers. Providing certain conditions are met (for example, once a request has been made) a landlord or manager of premises that are to let or of premises that have been let or sold must make reasonable adjustments to their practices, policies and procedures or provide an acceptable standard of services for a disabled person. For example, a Residential Management Company might have to allow disabled tenants with mobility difficulties to leave rubbish in another place if they cannot access the designated refuse point.

The key to the new proposed legislation is flexibility: for example, if a communal area is closed for health and safety reasons at a time when a disabled person needs to access it because they cannot use an alternative route which would be available to an able person, then a Residential Management Company would be expected to take reasonable steps to reschedule work so that the disabled person could enjoy access to and from their property as required.

Similarly, if there are clauses in the lease which forbid alterations to be made to the property but a disabled resident needs a chairlift then it would be deemed a reasonable compromise to allow the chairlift to be installed, provided the disabled person agrees to reinstate the property to its original condition when they leave.

Other considerations may include putting minutes of the residential management company's AGM into 20 point font for visually impaired members or providing a clip-on receiver that vibrates when a communal doorbell rings for the benefit of tenants who are hard of hearing.

However, the duty will not arise unless the auxiliary aid or service is needed specifically in connection with the use of the premises concerned. Accordingly, a landlord would not have to provide a wheelchair for a tenant who has difficulty walking, as the tenant would need this for general purposes and not just for moving around the flat.

Once again the key word in the proposed legislation is reasonable. The majority of Residential Management Companies probably already act on this basis without any requirement for legislation but in view of the relatively imminent arrival of new legislation in December 2006 it will be well worthwhile building plans for its compliance into any activity which is undertaken between now and the end of next year.

Further information can be found on www.disability.gov.uk/dda

Disclaimer

This article was taken from Residentsline Newsletter No 8, published in Spring 2005.

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