

**EXPLANATORY MEMORANDUM TO
THE DISABILITY DISCRIMINATION (PUBLIC AUTHORITIES) (STATUTORY
DUTIES) REGULATIONS 2005**

2005 No. 2966

1. This explanatory memorandum has been prepared by The Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These regulations would require prescribed public authorities, which are listed in the schedule 1 to the regulations, to carry out certain specific disability equality duties. In particular these bodies will be required to publish, and periodically review, a Disability Equality Scheme which would set out how the body intended to carry out their disability equality duties set out in section 49A of the Disability Discrimination Act 1995.

2.2 Schedule 2 lists those Ministers, and the National Assembly for Wales, who would have to publish a report giving an overview across their policy sector of progress towards greater equality, and sets out their proposals for coordination in that sector to bring about further progress.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None

4. Legislative Background

4.1 The Disability Discrimination Act 2005 inserted new sections 49A to 49F into the Disability Discrimination Act 1995. New section 49A creates what is generally referred to as a “disability equality duty” requiring almost all public bodies to have, whilst carrying out their functions, due regard to the need to eliminate discrimination against, and harassment of disabled people, to promote greater equality of opportunity for disabled people, to promote positive images of, and participation in public life of disabled people, and to recognise that achieving equality for disabled people will at times require adjustments that will mean treating a disabled person more favourably. Sections 49B and 49C describe the types of person or act subject to the public sector duty.

4.2 New section 49D allows the Secretary of State to impose by regulation, specific disability equality duties on listed public bodies, where those duties would assist the bodies in carrying out their duty under section 49A. Sections 49E and 49F set out the enforcement mechanism that relates to non-compliance with the specific duties set out in these regulations. Enforcement of the specific duties is by the Disability Rights Commission through the issue of compliance notices, which are themselves enforceable through the County Court (Sheriff Court in Scotland).

4.3 These regulations are intended to ensure that the largest and most significant public bodies in respect of disabled people are required to set out how they intend to carry out their duties under section 49A. This will assist those bodies in planning for the duty, will provide transparency and will allow the bodies to demonstrate they are carrying out the duty. Finally, it will make it easier for the Disability Rights Commission to enforce that duty.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The disability equality duty created by the Disability Discrimination Act 2005 and these regulations are intended to mirror, and have equivalent weight to, the similar race equality duty introduced by section 71 of the Race Relations Act 1976 (as amended by section 2 of the Race Relations Amendment Act 2000) and subordinate legislation such as the Race Relations Act 1976 (Statutory Duties) Order 2001 (SI 2001/3458).

7.2 The disability equality duty follows recognition that providing disabled people with individual right of redress against discrimination goes only part way towards addressing the disadvantage faced by disabled people. Often disabled people face disadvantage or discrimination because their needs have not been taken into account in the ways services are designed, or the way functions are carried out. This is born out by the continuing inequality faced by disabled people as demonstrated in “Improving the Life Chances of Disabled People” (Strategy Unit Report 2005). As part of the Government’s strategy for tackling this inequality, the duty in section 49A of the 1995 Act and these regulations are designed to ensure that across the public sector public bodies continually examine how they operate, and progressively remove barriers to greater equality of opportunity for disabled people.

7.3 In July 2004 the Government published “Delivering Equality for Disabled People”, a consultation on how the regulation making powers in the then proposed Disability Discrimination Bill should be utilised to promote greater equality for disabled people, and to eliminate institutional barriers in the public sector.

7.4 The consultation document proposed specific equality duties, based on the equivalent race duties, but building upon the experience of those duties, and taking into account the differences between disability and race. For example, the proposed disability duties recognise that monitoring disability in a workforce or customer base is a much more complex issue than monitoring race. The duties were also designed to allow flexibility so that public bodies could carry out their disability duties effectively alongside their other existing

duties, for example, their specific race equality duties. The proposed regulations would put it beyond doubt that public bodies are required to carry out the planned activities in their published scheme, unless circumstances make it unreasonable or impracticable for them to do so.

7.5 In the consultation document, the Government set out the factors to be taken into account when deciding if bodies should be subject to the proposed specific equality duties. These were whether the body –

- has significant direct dealings with disabled service users;
- has significant impacts on the lives of disabled people;
- could be a significant employer of disabled people; and
- is of sufficient size to support the duties.

The Government made clear that it considered that the bodies already placed under the specific race equality duties met these criteria, and also, that cultural bodies, such as the National Museums and Collections, and also countryside bodies, such as the National Park Authorities, had an important role in enabling access for disabled people, and it was the Government's intention to place them under the specific disability duties.

7.6 Nearly 700 people participated in consultation events, and 200 individuals and organisations made written responses. The tenor of responses was positive with all but a small number of responses welcoming both the spirit and practical approach taken in the consultation document. The main issues raised by respondents were:-

- How the specific duties would apply to schools, where most respondents commenting on the issue were concerned that schools should be included in the list of bodies subjected to the specific duties;
- The lack of a duty "to promote good relations" as exists in the corresponding race legislation;
- Whether additional bodies should be subject to the specific duties; and,
- Concern about the administrative burden the new duties might place on public bodies.

7.7 The Government's responses to these issues were as follows –

- The Government confirmed that schools would be subject to the specific duties in March 2005. However, in order to enable schools to build their new planning and reporting duties into their existing responsibilities, and thus minimise administrative burdens, the start date for the specific duties as it will apply to primary schools in England, and all schools in Wales has been delayed to 2007, as set out in regulation 2 (6) (b) and (c).
- The Government put forward amendments to the duty in section 49A during the passage of the Bill to ensure that the sort of activity public bodies would be encouraged to undertake, in relation to the race duty to promote good relations, would also be encouraged in relation to disabled people (see in particular sections 49A (e) and (f)).
- The Government considered a large number of additional bodies that were suggested for inclusion in the regulations and, after applying the criteria set out in the consultation document, announced on 21 July 2005 that an additional 60 public bodies would be made subject to the duties applied by these regulations. The regulations include these bodies, plus a

further five bodies which Ministers have subsequently agreed to list, and omit a small number of bodies that were originally proposed for listing, but will not exist by the time the regulations come into force.

- The proposals from the outset have been designed to minimise the need for unnecessary bureaucracy. The duties will require bodies to do only what is reasonable and proportionate, and the regulations have been drafted to allow bodies flexibility in monitoring and prioritising, with an emphasis on outcomes rather than process.

7.8 The imposition of duties on Scottish public authorities, and in respect of the Scottish functions of cross border authorities, is a devolved matter under the devolution settlement. The Scottish Parliament resolved to allow Westminster to legislate for Scotland in respect of the section 49A duty. Scottish Ministers are given their own regulation-making powers under section 49D to prescribe specific duties in relation to Scottish public bodies, and in relation to the Scottish functions of cross-border authorities.

7.9 In accordance with the provisions of section 49D, these regulations are made following consultation with Scottish Ministers, the Disability Rights Commission and the National Assembly of Wales. In addition, in respect of duties placed on Welsh public bodies, consent has been obtained from the National Assembly of Wales.

8. Impact

The Regulatory Impact Assessment for the Disability Discrimination Act 2005 covered the duties imposed by section 49A of the Act, as well as those imposed by proposed regulations under section 49D. An extract of the relevant part of the RIA is attached to this memorandum.

9. Contact

Gordon Woods at the Department for Work and Pensions Tel: 020 7962 8316 or e-mail: gordon.woods@dwp.gsi.gov.uk can answer any queries regarding the instrument.

Attachment: extract from the Regulatory Impact Assessment for the Disability Discrimination Act 2005 published in July 2005 which was signed by Anne McGuire in July 2005.

Annex 1 - Cost and Benefit Analysis of the Disability Discrimination Act 2005

1. Introducing a duty on public authorities to promote equality of opportunity for disabled people

1.1 The 2005 Act introduces a general duty on public authorities to have due regard to the need:

- to eliminate unlawful discrimination against disabled people;
- to eliminate unlawful harassment of disabled people for reasons related to their disabilities;
- to promote equality of opportunity between disabled persons and other persons by improving opportunities for disabled persons;
- to take steps to take account of disabled people's disabilities;
- to promote positive attitudes to disabled people; and
- to encourage disabled people's participation in public life.

1.2 This positive duty builds on the existing longstanding voluntary policy of "mainstreaming". It will ensure that public bodies take steps to:

- comply with their existing responsibilities under discrimination law; and
- reduce the disparity in outcomes experienced by disabled people compared with others.

1.3 During the House of Lords' consideration of what was then the Disability Discrimination Bill, the general duty was amended to ensure that its implications were clear to public authorities. These amendments do not affect the Regulatory Impact Assessment, as they relate to activity that was always intended to be prompted by the general duty.

1.4 The public sector has been encouraged to "mainstream" equality considerations into its activities for a number of years, and many public bodies are already taking steps to embrace the diversity of their staff, and the people they serve, and have effective mechanisms in place to ensure that they are considering the impact and outcomes of their activities in order to promote equality for all people. Some bodies are using formal tools to achieve this - for example, 228 English local authorities are using the 'Equality Standard for Local Government' to make progress in relation to gender, race and disability equality.

1.5 However, there is also evidence that the approach to mainstreaming adopted by different public bodies is not always consistent. The new duty will introduce a framework that is both consistent and legally enforceable. It will allow public bodies, and Government, acting as a stakeholder on behalf of the public, to assess whether the public sector is improving its treatment of disabled people and taking appropriate action where it is needed.

1.6 In order to assist public authorities to comply with the duty, the Government intends to use the regulation-making powers contained within the 2005 Act to impose specific duties on public authorities. The Government's proposals were published in *Delivering equality for disabled people* (Cm 6255). The specific duties will have three principal benefits:

- they will help public authorities to understand how they should respond to the general duty set out in legislation;
- they will allow the wider community to see whether public authorities are complying with their legal obligations; and
- they will facilitate cost-effective enforcement by the Disability Rights Commission.

1.7 The Disability Rights Commission will publish guidance on both the general and specific duties.

1.8 The Race Relations Act has a two stage process for enforcement of the specific duties it imposes on public authorities. A compliance notice requires compliance within time limits and requests for information to be provided to the Commission for Racial Equality (CRE) also within prescribed time limits. In the event of non-compliance with a requirement to furnish information, or perform the specific duty, an application can be made to the County Court in England and Wales or a sheriff court in Scotland to secure/order the necessary compliance. The Courts may order the public sector body to furnish the information required by the CRE or order performance of the specific duty via compliance with any notice issued by the CRE. The intention is to emulate these provisions for the duty to promote equality of opportunity for disabled people.

Costs to the public sector

1.9 The duty is not an absolute duty. Rather, by requiring that authorities give ‘due regard’ to eliminating unlawful behaviour, and promoting equality of opportunity, it allows authorities to balance the requirements of this duty against their other legal obligations, and the resources they have available. In effect, each authority has the flexibility to determine, within its own financial and other constraints, how to comply with the duty. It is also worth bearing in mind that, depending on their size, location and nature, authorities will have starkly different disabled customers and provide a greater or lesser range of services to those disabled customers.

1.10 It is therefore difficult to quantify the costs to the public sector of this new duty. However, costs may arise for two reasons:

- in order to eliminate discrimination within public authorities, or to promote equality; or
- in relation to the administrative arrangements required of public authorities.

1.11 As the first of these points relates to costs arising from existing legislation, and the existing policy that equality considerations should be mainstreamed across the activities of the public sector, the DDA 2005 will not impose any additional costs on the public sector.

1.12 Existing legislation requires the public sector to make reasonable adjustments:

- when a disabled employee or potential employee is placed at a ‘substantial disadvantage’ in comparison with non-disabled employees or potential employees; and
- in advance of disabled people attempting to make use of a service.

1.13 The ground-breaking nature of Part 3 of the Disability Discrimination Act 1995, which requires service providers to take action in advance of disabled people presenting themselves, means that public authorities which are service providers (that is, the vast majority of public authorities) are already under a legal duty to anticipate the needs of

disabled people, and from 1 October 2004, this was extended to require such authorities to make adjustments to physical features of premises.

1.14 Research (*Disability in the workplace: Employers' and service providers' responses to the Disability Discrimination Act in 2003 and preparation for 2004 changes*) indicates that public authorities are already more aware of their legal obligations than private organisations, and that, in general, the costs of reasonable adjustments are small (*Costs and benefits to service providers of making reasonable adjustments under Part II of the Disability Discrimination Act*). However, there are still likely to be some public authorities which are not taking all the necessary steps to fully comply with the law in full, and so the duty will prompt them to do so. Such authorities would therefore face costs but only as a result of existing duties.

1.15 The administrative arrangements for complying with the duty to promote equality will be set out in the specific duties described in regulations. They would require listed public bodies to publish a Disability Equality Scheme that would:

- show how disabled people were involved in developing the scheme;
- set out arrangements for assessing the impact of the body's activities on disabled people;
- set out an action plan describing the steps bodies would take in response to the general duty to promote equality;
- set out the evidence bodies would gather on the effect of their activities on disability equality;
- deliver the action plan; and
- report annually on progress.

1.16 Authorities will be required to review and update their Disability Equality Schemes within three years.

1.17 The Government consultation exercise discussed elsewhere in this RIA, sought to ensure that these duties strike the appropriate balance between bureaucratic burden, and the effective implementation of the general duty.

1.18 In particular, the Government will ensure that, as far as is practicable, public authorities will be able to adapt the arrangements they have put in place to comply with the duty to promote race equality. In addition, the processes identified in *Delivering equality for disabled people* are such that they can easily, and with little additional costs, be integrated into existing public sector activities – for example, all public authorities already collect management information, and so collecting data to understand how the authority serves disabled employees and service users will easily be integrated with this and is unlikely to have significant cost implications.

1.19 This revised RIA reflects the responses to the *Delivering equality for disabled people* consultation. Most respondents did not comment on the detail of the RIA.

1.20 When estimating costs to the public sector it has been assumed that all public authorities are compliant with the disability duty. If this were not the case it is possible that they may be subject to judicial review, although none have been taken to date in relation to

the race duty. This RIA endeavours to estimate costs to authorities for which it can be assumed specific duties will apply.

1.21 The duty to promote disability equality only applies to the public sector and not private firms. However, as the duty applies to the public authority whether a function is carried out by the authority itself, or by an external contractor, some parts of the private sector would also be affected. The impact upon businesses is assessed later in this document.

1.22 While there are identifiable costs for public authorities in implementing the new duties, it is not anticipated that these will be onerous. Because the new duties largely reflect the race duties already in place, there are significant economies in also complying with the disability duty. In fact, many public bodies would already largely comply due to initiatives already in place.

1.23 Given the difficulty in estimating the exact extent to which public authorities might already be complying with the duty, this RIA generally uses ranges to estimate the time spent and associated cost, utilising anecdotal evidence associated with the implementation of the race duty.

One-off implementation costs

Cost to Disability Rights Commission (DRC)

1.24 Developing the duty would require the DRC to consult widely, determine obligations and possibly targets, and produce guidance, training advice, and monitoring toolkits for public authorities. The Commission for Racial Equality (CRE) spent 18 months on preparing for implementing the race equality duty, including a six-month consultation period. Based on their staffing requirements during this 18-month period, and feedback from the Greater London Authority in implementing their Disability Equality Scheme, we estimate that the one-off implementation costs for the DRC would be between £415,000 and £655,000. Over 85 per cent of this total will consist of staffing costs,¹ with the remainder comprising the approximate cost of consultation and publishing information.²

Costs – general duty

1.25 Costs would be incurred in reading the guidelines for those authorities to which only the general duty applies. Based on 15 minutes of a personnel manager's time to read the new guidelines, it is estimated that the general duty will cost these authorities between £285,000 and £288,500.

¹ Staff costs are based on information provided by the CRE in terms of the number of staff of varying grades working on implementing the duty for race equality. It has been assumed that two executive officers and 2 higher executive officers work on the duty over a period of 18 months, on a salary of £21,940 and £26,378 respectively. Between two thirds and all of one middle manager's time, on a salary of £45,800, and between one third and two thirds of an HEO level lawyer and a Range 10 lawyer's time, on respective salaries of £26,378 and £45,800. It has been assumed that two communications staff of the same range as the legal staff mentioned above work on the duty, with the HEO spending half, to all of their time on the duty, and the Range 10 spending between a third and two thirds of their time on the duty. The RIA also allows for one Grade 5/6 on a salary of £54,000 spending 25-50% of their time on the duty. All salaries have been increased by 30% to allow for non-wage costs.

² Greater London Authority spent approximately £3000 on consultation when developing their Disability Equality Scheme. It is estimated that approximately £30,000-£75,000 would be spent by DRC on consultation and £10,000-£20,000 on producing guidance.

Costs – specific duty

Smaller authorities

1.26 Higher Education (HE) and Further Education (FE) institutions and Other Health Authorities (primary care organisations, unitary trusts, and secondary care trusts.): it has been assumed that these bodies will allow 8.5-12 days of a personnel manager/equivalent's time to review the guidelines, liaise, and draw up a scheme under the proposal. The total one-off implementation cost is estimated at £1.6-2.4 million.^{3 4}

1.27 Other Authorities: it has been assumed that 5-10% of authorities in this category (515 to 1030 authorities) will have to comply with specific duties. We expect a personnel manager to spend 2.5 days on reading legislation and putting a scheme in place.⁵

Larger authorities

1.28 This RIA uses a slightly different approach for local and central government. Feedback suggests that local authorities had one senior coordinator on an annual salary of approximately £45,500 allowing for non-wage costs⁶, working on drawing up the race scheme for six months. A Commission for Racial Equality (CRE) survey 6 months after introduction of the race duty showed that over one-third of respondents had policies/plans in place assessed as fully or mainly developed.⁷

1.29 Local authorities: costs are based on a senior coordinator spending 5 months reading legislation, consulting, and drawing up a plan. Because some local authorities may already meet some of the specific duties or have some of the necessary processes already underway, we assume that between 10-33% of local authorities already have the essentials for a disability equality plan in place.⁸ For example, the London Borough of Barking and Dagenham have in place a 3-year equality plan to meet the legislative requirements of the race duty, but that also already covers other equality strands such as disability and gender.⁹ Scaling these costs up across 410 local authorities and 46 Strategic Health Authorities implies a one-off implementation cost of £6.5 million to £9.2 million.¹⁰

³ Cost per day is £28.28 x 8 hours=£226. The total cost for all HE/FE institutions, is therefore £226 x 8.5 x 531 to £226 x 12 x 531 = £1 million to £ 1.4 million.

⁴ A local authority said they had an Equalities Officer on a salary of £35,000, which adjusted for non-wage costs amounts to £45,500. $((45,500/12)*0.25)*644$ authorities) = £0.6 million, $((45,500/12)*0.4)*644$ = £1 million.

⁵ Cost per day is £28.28 x 8 hours=£226. The total cost these authorities is therefore; (£226 x 2.5 x 515) to (£226 x 2.5 x 1030) under option 1: £0.3-£0.6 million and (£226 x 3 x 515) to (£226 x 3 x 1030) under option 2: £0.35-£0.7 million.

⁶ Senior coordinator salary of £35,000, increased by 30% to allow for non-wage costs.

⁷ www.cre.gov.uk

⁸ The Improvement and Development Agency Best Value Database: indicated that 44% of local authorities take gender considerations into account in consultation, though those with a scheme in place is likely to be lower, and we are including Strategic Health Authorities, thus we assume 33% as our upper range. 12% of authorities took gender considerations into account with regard to contract or partnership arrangements, adding in Strategic Health Authorities, we have adopted 10% as our lower range.

⁹ See <http://www.barking-dagenham.gov.uk/6-living/equality/equality-diversity-menu.html>

¹⁰ If 5 months of a senior coordinator's time is taken; $((45,500/12)*5)*(456*0.66)$ =£5.8 million to $((45,500/12)*5)*(456*0.9)$ =£7.8 million. In addition there is a consultation cost of £0.7 to £1.4 million. And we assume that all authorities will have to conduct a specific consultation prior to drawing up their action plan.

1.30 Central government: costs are based on a senior coordinator spending 6 months reading legislation, consulting, and drawing up a plan.¹¹ While it is believed that the majority of central government bodies will be considering disability equality at some level we assume that only 0-15% would have the essentials for a disability equality plan in place and comply with the specific duties. Scaling these costs up across 70 central government bodies produces a one-off implementation cost of £1.5-£1.9 million.¹²

1.31 Table 2 shows that the total one-off implementation cost to public authorities is expected to be between £11 million and £15 million.

2. Total one-off implementation costs to public authorities (£ million)

	Proposal	
	Low range (£)	High range (£)
DRC	0.4	0.7
General Duty	0.28	0.29
Specific Duty		
HE/FE Institutions	1.0	1.4
Local Authorities	6.5	9.2
Health Authorities	0.6	1.0
Central Government	1.5	1.9
Others	0.4	0.7
Total	10.7	15.2

1.32 There will also be a one-off cost to business of adapting to the disability duty, which has been estimated at between £2.8 million and £5.7 million.

Ongoing implementation costs

1.33 There will be ongoing implementation costs to public authorities subject to additional requirements such as the requirement to produce action plans every three years and to report on progress against the plan on an annual basis. This will necessitate the ongoing collection and monitoring of disability data in terms of employment, training, and service delivery. It is also anticipated that some of central government and some local authorities will commission research/surveys to inform the action plan.

Producing an action plan

1.34 Authorities will identify their own disability equality priorities, through ongoing evidence gathering and analysis of this data. Progress is reported on an annual basis, and the action plan itself is revised every 3 years. We anticipate that the annual reporting back will involve reporting data from the past year, which is required to assess progress against the

¹¹ The Greater London Authority spent approximately £3000 consulting with four focus groups when drawing up their Gender Equality Scheme. This RIA adopts a range of £2,000-£5000 for the proposal.

¹² If 6 months of a senior coordinator’s time is taken; $((45,500/12)*6)*(70*0.85) = £1.3\text{million}$ to $((45,500/12)*6)*70 = £1.6\text{million}$. In addition there is a consultation cost of £0.1 to £0.3 million. And it is assumed that all authorities will have to conduct a specific consultation prior to drawing up their action plan.

action plan. This RIA therefore spreads the cost estimates associated with the plan over three years.

Costs to smaller authorities

1.35 Higher Education (HE) and Further Education (FE) institutions, other health authorities: it has been assumed that a personnel, training, or industrial relations manager will be drawing up the plan and coordinating input from a statistician/researcher and an administrative assistant. We have assumed that 1 day of a personnel manager's time is required to assess progress and report back¹³. 1.5 days of an administrative assistant's time is required to be spent on formatting the response / 3-year action plan and ensuring that DRC process requirements have been met¹⁴. It is estimated that 1.5 days of a researcher's time will be needed in order to analyse disability data collected, assess progress against targets, and produce charts or tables where necessary¹⁵. Spreading these staffing costs over three years, it is estimated that the annual implementation cost associated will be £0.2 million.

1.36 Other Authorities: it has been assumed that 5-10% of authorities in this category (915 to 1830 authorities) will have to comply with specific duties. It is assumed the same staff requirements as for health authorities; namely 1 day of personnel manager time, 1.5 days of administrative office time and 1.5 days of research officer time. The annual implementation costs are estimated at £0.2-£0.4 million.¹⁶

Costs to larger authorities

1.37 Local authorities: it is anticipated that local authorities would have a personnel, training, or industrial relations manager drawing up the plan and coordinating input from a statistician/researcher and an administrative assistant over a period of 2 days under option 1. It is estimated that 2 days of an administrative assistant's time, and 2.5 days of an industrial relations manager, are required. 2 days of a statistician or researcher's time are involved. It is assumed that 0-20% of local authorities are already gathering and monitoring disability data, or could easily incorporate this into processes set up as a result of the race duty. Indeed some may already set disability equality targets and monitor progress towards these goals.¹⁷

1.38 It is also anticipated that 25-50% of local authorities commission research for the purpose of developing their action plan at a cost of £15000, or £5000 per annum spread over 3 years. Combining research costs with staffing costs associated with the action plan (applying the same methodology as in footnote 20, but for a range of 0-20% of 456 local authorities) produces an annual cost which rounds to £0.6 million-£1.2 million. Combining this with the cost to Local Authorities of producing disability impact assessments for major

¹³ The average hourly earnings of a Personnel, training and industrial relations manager, excluding overtime, are £21.75, New Earnings Survey 2003. We have increased this by 30% to take into account the non-wage costs = £28.28.

¹⁴ The average hourly earnings (excluding overtime) of a civil service administrative officer/assistant are £7.43, and those of a local government clerical officer/assistant are £9.59: we have taken the average, equal to £8.51, New Earnings Survey 2003. This RIA increases this by 30% to take into account the non-wage costs = £11.06.

¹⁵ The average hourly earnings of a researcher, excluding overtime, are £13.96, New Earnings Survey 2003. This RIA increases this by 30% to take into account the non-wage costs = £18.15.

¹⁶ (1 day of a personnel manager's time: (£28.28*8*915) to (£28.28*8*1830) + 1.5 days of an administrative officer's time (£11.06*8*1.5*915) to (£11.06*8*1.5*1830) + 1.5 days of researcher's time (£18.15*8*1.5*915) to (£18.15*8*1.5*1830))/3 = £0.1-£0.2 million.

¹⁷ Improvement and Development Agency: Best Value Database suggests 22% of local authorities are considering gender when setting improvement targets and plans.

changes in policy (it is assumed 3 changes a year with a researcher¹⁸ spending between a half and full day on each) produces an annual implementation cost for local authorities of between £0.7 million and £1.4 million.

1.39 Central government: it is anticipated that central government would have a personnel, training, or industrial relations manager drawing up the plan and coordinating input from a statistician/researcher and an administrative assistant over a period of 2 days. We have estimated that 2 days of an administrative assistant’s time are required. Two days of a statistician or researcher’s time are involved. We assume that 10-25% of central government bodies either already have an action plan in place, or are already setting disability equality targets and monitoring progress towards these goals.

1.40 It is also anticipated that 25-50% of central government bodies commission research for the purposes of developing their action plan at a cost of £15000, or £5000 per annum spread over 3 years. Combining research costs with staffing costs associated with the action plan (applying the same methodology as in footnote 20, but for a range of 75-90% of 70 central government bodies) produces an annual cost which rounds to £0.1 million - £0.2 million. Combining this with the cost of producing disability impact assessments for major policy changes as part of the RIA process (assuming 1-3 cases a year with a researcher¹⁹ spending approximately 1 day on each) produces an annual implementation cost for central government which rounds to between £0.1 million and £0.2 million.

3. Total ongoing implementation costs to public authorities subject to specific duties (£ million)

Action plans: and associated monitoring and reporting back	Proposal	
	Low range (£)	High range (£)
HE/FE institutions	0.1	0.1
Local Authorities	0.7	1.4
Health Authorities	0.1	0.1
Central Government	0.09	0.21
Others	0.2	0.4
Total	1.2	2.2

1.41 The total ongoing implementation cost to business has been estimated at between £2.3 million and £4.7 million per year (see costs to business section, paragraph 48.)

Policy costs

Cost to DRC

¹⁸ The average hourly earnings of a researcher, excluding overtime, are £13.96, New Earnings Survey 2003. This RIA increases this by 30% to take into account the non-wage costs = £18.15. (£18.15*4*456)*3 to (£18.15*8*456)*3 = £0.1 million to £0.2 million.

¹⁹ The average hourly earnings of a researcher, excluding overtime, are £13.96, New Earnings Survey 2003. This RIA increases this by 30% to take into account the non-wage costs = £18.15. (£18.15*8*70) to (£18.15*8*70)*3 = £0.1 million to £0.3 million.

1.41 The DRC would have to incur the cost of providing information and guidance on an ongoing basis - including giving hands-on guidance. We estimate that this will cost DRC between £10,000 and £12,000 per annum, which includes some telephone guidance.²⁰

1.42 The DRC would also need to monitor compliance. The CRE have 25 staff involved in visiting local authorities to aid compliance. It is assumed that a similar number will be needed to monitor the disability duty in addition to the race duty. It is estimated that 8-10 officials will be required to monitor compliance with the disability duty, at a cost of £0.36 million-£0.46 million, if annual staff wages are about £35,000 for each member of staff,²¹ £45,500 after allowing for non-wage costs.²²

Cost to public authorities

1.43 The coordinating public authorities receiving information from the DRC are expected to disseminate this information to authorities within their remit at an arbitrary cost of £500 per annum. When applied to the 526 authorities receiving such information²³ this produces an annual cost of £263,000.

1.44 Public authorities will also have to undergo some regular training activities. Feedback suggests that this can be done at fairly low cost, by incorporating disability equality into a section of the authority’s website or employee handbook. This could also be done at a centralised level and filtered down where appropriate. This would build on the processes already created in response to the introduction of the public duty to promote race equality.

1.45 Table 4 shows that the annual policy cost to public authorities is expected to be between £0.7 million and £0.8 million under option 1 and between £1 million and £1.2 million under option 2.

4. Total ongoing policy costs to public authorities(£ million)

	Proposal	
	Low range (£)	High range (£)
DRC provision of guidance	0.01	0.01
Central and local government disseminating information	0.3	0.3
DRC checking compliance	0.4	0.5
Total	0.7	0.8

Costs to business

1.46 The duty to promote disability equality only applies to the public sector and not private firms. However, as the duty applies to the public authority whether a function is carried out by the authority itself or an external contractor, relevant disability equality

²⁰ Evidence provided from the local government equality standard has informed this estimate, which has been scaled up by 25%-50% to cover all local authorities, strategic health authorities and central government authorities.

²¹ Equivalent salary to that of a senior coordinator or a quality assurance manager, increased by 30% to reflect non-wage costs = £45,500.

²² It is estimated that 8-10 such officials would have responsibility for monitoring compliance with the disability duty: (8*45500) to (10*45500) = £0.36 million to £0.46 million. This RIA still allows for some efficiency gains from monitoring compliance across equality strands, relative to CRE staff requirement.

²³ Central government (70) + local authorities (410) + Strategic Health Authorities (46) = 526

considerations should be built into public procurement processes. It would be expected that private contractors would seek to recoup any additional costs through the tender/contract process, particularly where disability equality is a core requirement of the contract. Costs would also generally be proportionate to the size of the business, with potentially additional costs where contractors come into direct contact with the public.

1.47 This RIA identifies the industry sectors that typically have a heavy concentration of contractors within them, and estimated the number of small firms (10-49 employees) that could be affected. Only some of these would be contractors to the public sector, and equally there will be some contractors to the public sector in other industry sectors. The RIA makes the cautious assumption that 25%-50% of these firms are contractors to the public sector, and to allow for the existence of contractors in sectors that we haven't considered. On this basis, it is estimated that approximately 5,000-10,000 small firms will be affected. This has informed the estimated costs to business under paragraph 79.

5. Estimate of small businesses affected.

Industry Sector	Employers with 10+ employees	Employers with 50+ employees
Canteens and catering	665	140
Computer hardware consultancy	150	25
Computer software consultancy	3,165	650
Maintenance: office, accounting and computing equipment	220	55
Cleaning	2350	750
Construction (exc. Equipment rental)	16,005	1,975
Investigation and Security Services	920	285
Sewage and refuse disposal, sanitation and similar activities	465	85
Total	23,940	3,965
Number of small firms (10-50 employees) in these sectors		19,975
Assume 25-50% small firms are contracting to public sector		4,994-9,988

Source: Small Business Service – small and medium enterprise statistics 2003

1.48 The total one-off cost to business of adapting to the disability duty has been estimated at between £2.8 million and £5.7 million.²⁴ The total ongoing cost to business has been estimated at between £2.3 million and £4.7 million per year.²⁵

²⁴ Transitional cost for all contractors: 0.5 days management time at £23.21 for 4,994-9,988 businesses = £0.5-£0.9 million; transitional cost for medium and large firms: 15 days management time for 991-1983 businesses = £2.1-£4.1 million; transitional cost for firms coming into direct contact with the public: £299,625-£599,250.

²⁵ Ongoing cost for all contractors: 1.5 days management time at £23.21 for 4,994-9,988 businesses = £1.4-£2.8 million; ongoing cost for medium and large firms disseminating information on a website and in annual report: £186,000-£372,000; ongoing cost for firms coming into direct contact with the public – annual customer satisfaction survey : £0.75-£1.5 million.

Summary

5. Summary Table of Costs (£ million)

	Option 1	
	Low range	High range
General Duty		
One-off implementation: public sector	0.28	0.29
One-off implementation: private sector	2.8	5.7
Ongoing implementation: private sector	2.3	4.7
Specific Duty and DRC cost		
One-off implementation: DRC	0.42	0.66
One-off implementation: public sector (excluding DRC)	10.0	14.2
Ongoing implementation: public sector	1.2	2.2
Total one-off Implementation	13.5	20.9
Total ongoing implementation	3.5	6.9
Total ongoing policy	0.7	0.8

Benefits to the public sector

1.49 The new duty is primarily designed to improve outcomes for disabled people. However, it will also have positive implications for the public sector:

- decision making becomes more transparent, reasonable and rational in relation to disability related issues;
- as a result of this improved decision-making, employment practices and service delivery are better attuned to the needs of disabled people, delivering greater satisfaction and better value for money;
- there is a reduction in individual grievances – saving time, money and effort which can be better spent, for example, on improving service delivery all round; and
- it will be able to act as an exemplar in the field of equal opportunities for disabled people, thereby increasing the sector's standing in the communities they serve.

1.50 The social, commercial and personal value of such benefits are difficult to quantify in financial terms.

Benefits for disabled people

1.51 The duty is intended to drive up the performance of the public sector across all its interactions with disabled people – as employees or as service users. The following are among the benefits which should accrue:

- disabled people have growing confidence that the public sector is delivering on equal opportunities for them and treating them lawfully, fairly and reasonably;
- disabled people are better able to achieve their potential as employees of the public sector;
- disabled people find that the services provided by the public sector take better account of their needs; and
- disabled people are helped to lead more independent lives, better integrated within their communities.

Benefits for wider society

1.52 The social costs of an unequal society include:

- the cost of income replacement benefits for (and the loss of potential tax revenues from) people who are prevented from working by the prejudices of employers;
- the costs of policing communities which do not treat each other with respect; and
- the opportunity costs resulting from society's failure to tap into the talents of all its members.

1.53 In addition to these social costs, which the Government believes can be reduced if the public sector takes a positive lead in promoting equality, public authorities already find that an imaginative approach to mainstreaming disability equality can deliver benefits to non-disabled people:

- reforming human resources policies may benefit people who are not disabled, as well as people who are;
- accessible literature assists all people – not just people with impaired vision or with a learning disability – to interact with Government; and
- well-designed and signposted buildings are easier for all visitors to navigate.