

DISABILITY DISCRIMINATION ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 3: Duties of Public Authorities

New section 49A: General Duty

57. New section 49A(1) sets out the six prongs of the duty. It requires a public authority, as defined in section 49B, to have due regard, when carrying out its functions, to the need to eliminate unlawful discrimination against disabled people, the need to eliminate disability-related harassment of disabled people, the need to improve equality of opportunity for disabled people, the need to promote positive attitudes towards disabled people, and the need to encourage participation by disabled people in public life. The duty will be enforceable through judicial review.
58. New section 49A(1)(d) requires public authorities to have due regard to the need to take steps to take account of disabled persons' disabilities or, in effect, to have due regard to the need to take steps to overcome the effects of disabilities. This underlines that 'equality of opportunity' cannot be achieved simply by treating disabled and non-disabled people alike, and recognises the long-standing principle that it is sometimes necessary to take positive steps to overcome the barriers faced by disabled people by making reasonable adjustments (such as providing information in different formats) or by making special provision for disabled people's needs (such as providing specialist transport services when public transport is inaccessible).
59. New section 49A(2) makes it clear that compliance with the general duty in section 49A(1) will not detract from a public authority's obligations to comply with other provisions of the DDA.