

Dartington Housing Association

Disability Discrimination Strategy

1. Strategy Statement

This Disability Discrimination Strategy forms part of the Association's overarching Equality and Diversity Policy.

Richard A Clark OBE, Chair of the National Housing Federation, stated that:

“ A person's home and neighbourhood have an enormous impact on their quality of life, especially for residents with disabilities. Housing Associations have a duty to ensure that all their residents have fair and equal access to housing and services.”

The Association's Disability Discrimination Strategy is based around the following key principles:

- People are disabled by the **inaccessibility** of the built environment and society's negative attitudes, rather than by their impairments.
- Disabled people experience **discrimination** when they are unable to access goods, services and facilities because of their disability.
- Associations should tackle “institutional discrimination” by reviewing their policies, practices, procedures and buildings. This should include a commitment to develop and implement an **action plan** of improvements that works to eliminate discrimination disabled residents, applicants and staff.
- To achieve equality for disabled people, housing associations must have an understanding of inequality and demonstrate a commitment to **challenge** and actively promote equality.

In 2003, housing associations made over 26,000 new lettings to households where one or more members considers they have a disability – that's nearly 1 in 5. Nationally, over 9 million people have a long-term impairment.

As a service provider, we have the interests of our customers at heart, so the responsibilities placed on us by the first duties of the Disability Discrimination Act make little difference to the way we already operate. However, the Association is required by law to make “reasonable adjustments” in terms of disability access. Therefore we may be required to change our approach to disabled customers. Specific types of adjustments we will consider include:

- Making adjustments to the premises including improving access routes and ensuring that they are free of clutter, or redecorating part of our premises to provide better contrast to someone with a visual impairment.
- Providing appropriate or additional training for staff who may come into contact with customers with disabilities, to assist them in the provision of services to and for people with different types of disabilities.
- Equipment changes, such as acquiring or using modified equipment, e.g. a telephone with text display for use by deaf customers.
- Making service literature and instructions more accessible.

2. Strategy Detail

2.1. Access to services

We will aim to ensure not just physical access, but also that vulnerable and marginalised groups have access to a range of information. Access to information should take account of the needs of speakers of other languages, different literacy levels and degrees of sensory deprivation as well as ensuring that vulnerable and marginalised communities are in the loop.

We will take reasonable steps regarding physical features, making it impossible or unreasonably difficult for disabled persons to access the organisation's goods or services. These may include:

- Removal of the feature, or
- Altering it, so it no longer has that effect, or
- Provide a reasonable means of avoiding the feature, or
- Providing a reasonable alternative method of making the service available.

We will work under the following premises:

- Do not assume that because a person does not look disabled, they are not disabled.
- Do not assume that because you do not know of any disabled people working within an organisation there are none.
- Do not assume that most disabled people use wheelchairs (in fact, it is under 5%)
- Do not assume that people with learning disabilities cannot be valuable employees, or that they can only do low-status jobs.
- Do not assume that a person with a mental health problem cannot do a demanding job.
- Do not assume that all blind people read Braille (under 50,000) or have guide dogs.
- Do not assume that all deaf people use sign language.
- Do not assume that because a disabled person may have less employment experience (in paid employment) than a non-disabled person, they have less to offer.

2.2. The "Disability Symbol"

The Association will aim to become a user of the Disability Symbol. This is a recognition given by JobCentre Plus to employers who have agreed to meet five commitments regarding the recruitment, employment, retention and career development of disabled people.

We will make it clear to disabled people, by the use of the Disability Symbol, that we welcome applications from them.

We recognise that by employing disabled people we will be better placed to recognise, develop and deliver the goods and services for our disabled customers. We also recognise that by using the symbol we will show existing employees that we value their contribution and will treat them fairly should they become disabled.

The five commitments to the Disability Symbol are:

1. To interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities.
2. To ensure there is a mechanism in place to discuss, at any time, but at least once a year, with disabled employees what they can do to make sure they can develop and use their abilities.
3. To make every effort when employees become disabled to make sure they stay in employment.
4. To take action to ensure that all employees develop the appropriate level of disability awareness needed to make your commitments work.
5. Each year, to review the five commitments and has been achieved, to plan way to improve on them and let employees and JobCentre Plus know about progress and future plans.

2.3. Disability Definitions

2.3.1. *When is a person disabled?*

A disabled person is someone who has a physical or mental impairment which has an effect on their ability to carry out normal day-to-day activities. That effect must be:

- Substantial (that is, more than minor or trivial), and
- Adverse, and
- Long-term (that is, it has lasted or is likely to last for at least a year or for the rest of the life of the person affected).

2.3.2. *What about people who have recovered from a disability?*

People who have had a disability within the definition are protected from discrimination even if they have since recovered.

2.3.3. *What does 'impairment' cover?*

It covers physical or mental impairments; this includes sensory impairments, such as those affecting sight or hearing. Hidden impairments are also covered (e.g. mental illness, mental health problems, learning disabilities, dyslexia, diabetes and epilepsy).

2.3.4. *Are all mental impairments covered?*

The term 'mental impairment' covers a wide range of impairments relating to mental functioning, including learning disabilities. It must be a clinically well-recognised mental illness in order to amount to a mental impairment.

2.3.5. *What is a 'substantial' adverse effect?*

A substantial adverse effect is something which is more than a minor or trivial effect. This reflects the general understanding of disability as a limitation going beyond the normal differences in ability which might exist among people.

2.3.6. *What is a 'long-term' effect?*

A long-term effect of an impairment is one:

- which has lasted at least 12 months, or
- where the total period for which it lasts is likely to be at least 12 months, or
- which is likely to last for the rest of the life of the person affected.

2.3.7. *Are people who have disfigurements covered?*

People with severe disfigurements are covered. They do not need to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities.

2.3.8. *What about people who know their condition is going to get worse over time?*

Progressive conditions are those which are likely to change and develop over time. Examples given in the Act are cancer, multiple sclerosis, muscular dystrophy and HIV infection. Where a person has a progressive condition he will be covered by the Act from the moment the condition leads to an impairment which has some effect on ability to carry out normal day-to-day activities, even though not a substantial effect, if that impairment is likely eventually to have a substantial adverse effect on such ability.

2.3.9. *What is meant by discrimination?*

Discrimination is:

- treating a disabled person less favourably for a reason relating to their disability;
- failing to comply with the duty to make "reasonable adjustments" where arrangements put the disabled person at a substantial disadvantage;
- without justification.

2.3.10. *What is a 'physical feature'?*

The following are to be treated as a physical feature:

- any feature arising from the design or construction of a building on the premises occupied by the organisation;
- any feature on the premises of any approach to, exit from, or access to such a building;
- any fixtures, fittings, furnishings, furniture, equipment or materials in or on the premises; and
- any other physical element or quality of any land comprised in the premises occupied by the organisation.

2.4. Disability Discrimination Act

We have duties under the DDA which makes it unlawful to discriminate against members of the public on the grounds of disability.

Key to the Act are the concepts that it is unlawful to discriminate against disabled people by:

- Refusing to provide a service without justification
- Providing a service to a lesser standard without justification
- Providing a service on worse terms without justification
- Failing to make reasonable adjustments to the way services are provided for disabled people
- Failing to make reasonable adjustments to the physical features of service providers, to overcome physical barriers to access.

Under the Act discrimination also occurs when anyone knowingly aids someone to discriminate against a disabled person, or victimises anyone who tries to make use of rights under the Act.

2.4.1. *What is unlawful Discrimination?*

Most conduct which is potentially unlawful cannot be justified. Conduct which amounts to:

- direct discrimination
- failure to comply with a duty to make a reasonable adjustment
- victimisation
- harassment
- instructions or pressure to discriminate, or
- aiding an unlawful act

is unlawful irrespective of the reason or motive for it.

2.4.2. *What is "Direct Discrimination"?*

An employer's treatment of a disabled person amounts to direct discrimination if:

- It is on the ground of his disability
- The treatment is less favourable than the way in which a person not having that particular disability is (or would be) treated, and
- The relevant circumstances, including the abilities, of the person with whom the comparison is made are the same as, or not materially different from, those of the disabled person.

Direct discrimination need not be conscious. A person may behave in a discriminatory way while believing that they would never do so. Moreover, direct discrimination may sometimes occur even though the employer is unaware of a person's disability.

Direct, non-justifiable discrimination covers instances of blatant discrimination on the ground of disability, where an employer treats a disabled person less favourably than it would treat a person without the disability whose relevant circumstances, including disabilities, are not materially different.

Treatment of a disabled person which amounts to direct discrimination under the Act's provisions is unlawful and can never be justified.

2.4.3. reasonable adjustments

A failure to comply with a duty to make a reasonable adjustment in respect of a disabled person amounts to discrimination in its own right. Such a failure is therefore unlawful.

2.4.4. What does the Act say about victimisation?

Victimisation is a special form of discrimination which is made unlawful by the Act. It is unlawful for one person to treat another ('the victim') less favourably than he treats or would treat other people in the same circumstances because the victim has:

- brought, or given evidence or information in connection with, proceedings under the Act (whether or not proceedings are later withdrawn)
- done anything else under or by reference to the Act, or
- alleged someone has contravened the Act (whether or not the allegation is later dropped), or because the person believes or suspects that the victim has done or intends to do any of these things.

2.4.5. What is "harassment"?

The Act states that harassment occurs where, for a reason which relates to a person's disability, another person engages in unwanted conduct which has the purpose or effect of:

- Violating the disabled person's dignity, or
- Creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

2.4.6. Can discrimination be justified?

Where an employer has treated a disabled person less favourably, but it is justified, they will not have discriminated. Treatment - or a failure to make a reasonable adjustment - can only be justified if the reason for it is both material to the circumstances of the case and substantial.

A service provider can refuse to serve a disabled customer so long as they are able to justify such action, and their reasons have nothing to do with the customer's disability and they would refuse to serve other customers in the same circumstances.

Where there is less favourable treatment (for example, a dismissal relating to a disability) there is also a duty to make reasonable adjustments. The less favourable treatment can only be justified on the grounds that it is a material and substantial

reason and where any reasonable adjustments would not have made any difference to that reason.

2.5. Customers

- 2.5.1. The Association will re-examine our offices and properties to anticipate and attempt to address the type of access issues that could arise.
- 2.5.2. We will attempt to anticipate the types of problems which could arise so that when a disabled customer requests a service, reasonable steps will have already been taken to ensure that they can be served without unreasonable difficulty.
- 2.5.3. We will keep requirements under regular review in the light of our experience of disabled people wanting to access our services.
- 2.5.4. There is no obligation under the DDA to provide car-parking bays. The DFT (Department for Transport) advises that there is no requirement to provide marked bays in private car parks. However, the Association will endeavour to do so as good practice where requested / necessary.
- 2.5.5. We will talk to disabled people about the service we provide and what improvements we can make.
- 2.5.6. We will be fair. The Association is committed to treating disabled customers exactly like any other customers.

2.6. Recruitment, Employment and Volunteering

2.6.1. *Recruitment*

The Association will not discriminate against a disabled person:

- in the arrangements made for determining employment offers;
- in the terms on which we offer that person employment;
- by refusing to offer, or deliberately not offering, the disabled person employment

Nor will the Association discriminate against a disabled employee in:

- the terms of employment afforded to them;
- the opportunities afforded to them for promotion, a transfer training or any other benefit (such as bonuses);
- by refusing to afford them, or deliberately not affording them, any such opportunity;
- by dismissing them or subjecting them to any other detriment.

2.6.2. *Can health and safety concerns justify less favourable treatment?*

Under health and safety law it is the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees. Part of this duty is a requirement for all employers to assess the risks to the health and safety of all employees in the workplace and then to put in place measures that reduce the risks to as low a level as can reasonably be achieved. Genuine concerns about the health and safety of anybody (including a disabled employee) may be relevant when seeking to establish that disability-related less favourable treatment of a disabled person is justified.

When we have reason to think that the effects of a person's disability may give rise to an issue about health and safety, we will have a new risk assessment carried out by a suitably qualified person.

2.6.3. Recruitment

The Association will not:

- Include unnecessary or marginal requirements in a job description or person specification can lead to discrimination.
- Make blanket exclusions.
- State that a certain personal, medical or health-related characteristic is essential or desirable if the characteristic is not necessary for the performance of the job.
- The Association is entitled to specify that applicants for a job must have certain qualifications. We will justify rejecting a disabled person for lacking a qualification if the reason why the disabled person lacks it is related to his disability. Justification will involve showing that the qualification is relevant and significant in terms of the particular job and the particular applicant, and that there is no reasonable adjustment which would change this

2.6.4. Selection

If the Association knows or could be reasonably expected to know that a particular disabled person is, or may be, applying and is likely to be substantially disadvantaged by our premises or arrangements, we will make changes.

The Association will give applicants the opportunity to indicate any relevant effects of a disability and to suggest adjustments to help overcome any disadvantage the disability may cause at interview.

When inviting a job applicant to attend an interview, we will ask whether any adjustments might be needed to enable them to participate fully in the process, and what those adjustments might be.

The Association may seek information about a disability, if necessary to enable the recruitment decision to be made, or for a related purpose such as equal opportunities monitoring.

The Association will not require job applicants to answer a medical questionnaire until after a conditional job offer has been made.

Once a decision has been made to appoint a disabled person, the Association will discuss reasonable adjustments with them before they start work.

2.6.5. Terms and conditions of service

Terms and conditions of service will not discriminate against a disabled person.

2.6.6. Induction, training and development

The Association will not discriminate in our induction procedures. We will make adjustments to ensure a disabled person is introduced into a new working environment in a clearly structured and supported way, with an individually tailored induction programme.

We will make reasonable adjustments in selection for training in order to avoid disabled people being placed at a substantial disadvantage.

2.6.7. Managing disability or ill health

The Association will not discriminate against an employee who becomes disabled, or who has a disability which worsens.

If as a result of the disability the Association's arrangements or a physical feature of the premises place the employee at a substantial disadvantage in doing their existing job, we will consider any reasonable adjustment that would resolve the difficulty. The following considerations will always be relevant:

- The first consideration in making reasonable adjustments should be to enable the disabled employee to continue in their present job if at all possible
- We will consult the disabled person at appropriate stages about what their needs are and, where the employee has a progressive condition, what effect the disability might have on future employment, so that reasonable adjustments may be planned
- In appropriate cases, we will also consider seeking expert advice on the extent of a disabled person's capabilities and on what might be done to change premises or working arrangements. Where an employee has been off work, a phased return might be appropriate
- If there are no reasonable adjustments which would enable the disabled employee to continue in their present job, we will consider whether there are suitable alternative positions to which they could be redeployed.

It may be possible to modify a job to accommodate an employee's changing needs. This might be by rearranging working methods or giving another employee certain minor tasks that the disabled person can no longer do, or by providing practical aids or adaptations to premises or equipment, or allowing the disabled person to work at different times or places from those with equivalent jobs. It may be that a reduction in working hours is appropriate.

Sometimes a reasonable adjustment will not work without the co-operation of other employees. In order to secure such co-operation, it may be necessary for the Association to tell one or more of a disabled person's colleagues (in confidence)

about a disability which is not obvious. A disabled person's refusal to give consent may impact upon the effectiveness of the adjustments which we are able to make or our ability to make adjustments at all.

If an employee keeps a disability confidential from the Association, this is likely to mean that unless we could reasonably be expected to know about it anyway, we will not be under a duty to make a reasonable adjustment.

2.6.8. *Termination of employment*

A disabled person will be taken to have been dismissed if:

- They are expressly dismissed, or
- the period for which they are employed expires without their employment being immediately renewed on the same terms, or
- they give notice, or does some other act to bring their employment to an end in circumstances in which they are entitled to terminate it without notice by reason of the employer's conduct (this is known as 'constructive dismissal').

Where the dismissal of a disabled person is being considered for a reason relating to that person's conduct, we will consider whether any reasonable adjustments need to be made to the disciplinary or dismissal process.

2.6.9. *After the termination of employment*

Where a disabled person's employment has come to an end, the Association will not:

- discriminate against them by subjecting them to a detriment, or
- subject them to harassment.

if the discrimination or harassment arises out of the employment which has come to an end and is closely connected to it.

Nor will we victimise a person (whether or not they are disabled) after their employment has come to an end.

The Association is liable for the discriminatory actions of our staff, unless we can prove that we have taken reasonably practicable steps to prevent staff from discriminating, such as providing disability awareness training.

The Association has provided disability awareness and equality training to all employees. This has also been offered to Board members. Such training opportunities will be kept under regular review and offered to staff.

2.7. Working Environment

Wherever reasonably practicable, suitable access for staff with disabilities will be provided throughout the workplace, along with a programme of improvement to ensure existing arrangements are improved where necessary.

Wherever reasonably practicable, special needs of staff with disabilities will be met, including providing adapted or special equipment and changes of working methods to help meet those needs.

2.8. Reasonable Adjustments

2.8.1. *What is a "reasonable" adjustment?*

The Disability Discrimination Act does not specify what is reasonable and what is not, but it does state that an employer should pay regard to:

- the extent to which taking the adjustment would prevent the effect in question;
- the practicability of taking the step;
- the financial and other cost in making the adjustment and the extent to which taking it would disrupt any of its activities;
- the extent of the employer's resources;
- the availability of financial or other assistance for making the adjustment.

Such reasonable adjustments include:

- Making adjustments to premises
- Transferring the person to fill an existing vacancy
- Allowing the person to be absent during working or training hours for rehabilitation, assessment of treatment
- Acquiring or modifying equipment
- Modifying instructions or reference manuals
- Providing a reader or interpreter

It might be reasonable for the Association to take other steps, including:

- A proper assessment of what reasonable adjustments may be required;
- Permitting flexible working;
- Allowing a disabled employee to take a period of disability leave;
- Employing a support worker to assist a disabled employee;
- making adaptations to the written test arrangement used in an interview;
- allowing job applications to be submitted on tape;
- providing a person with a sight problem with an adapted computer with large character, Braille display or speech output;
- providing time off when for rehabilitation/assessment;
- reallocating some minor duties to another non-disabled work colleague.

Failure to make a reasonable adjustment can never be justified and is against the law. Any proposed adjustments will be agreed with the disabled person prior to making them. They will then be implemented in a timely fashion.

2.8.2. *When is it 'reasonable' for an employer to have to make adjustments?*

Where a disabled person is placed at a substantial disadvantage by a provision, criterion or practice of the Association, or by a physical feature of the premises, we will consider whether any reasonable adjustments can be made to overcome that disadvantage.

If making a particular adjustment would increase the risks to the health and safety of any person (including the disabled person in question) then this is a relevant factor in deciding whether it is reasonable to make that adjustment.

2.9. Training and Development

The Association will, where appropriate, arrange training or mentoring for any disabled employee or for any other person.

2.10. Development

2.10.1. *What about the need to obtain statutory consent for building changes?*

The Association might have to obtain statutory consent before making adjustments involving changes to premises. Such consents include planning permission, building regulations approval, listed building consent, scheduled monument consent and fire regulations approval.

2.10.2. *Building Regulations and building design*

The Building Regulations building standards provide only a baseline standard of accessibility, which is not intended to address the specific needs of individual employees. The Association will therefore endeavour to anticipate the needs of disabled people when planning building or refurbishment works.

2.10.3. *What if a binding obligation other than a lease prevents a building being altered?*

The Association may be bound by the terms of an agreement or other legally binding obligation (for example, a mortgage, charge or restrictive covenant) under which it cannot alter the premises without someone else's consent. In these circumstances, it is reasonable for the Association to have to request that consent, but it is never reasonable for us to have to make an alteration before having obtained that consent.

2.11. Leadership and Monitoring

2.11.1. *Leadership*

- We will inform all employees and agents that conduct which breaches the policy will not be tolerated, and respond quickly and effectively to any such breaches.
- We will address all acts of discrimination by employees as part of disciplinary rules and procedures.
- Our complaints and grievance procedures are easy for disabled people to use and are designed to resolve issues effectively.
- We have clear procedures to prevent and deal with harassment for a reason related to a person's disability.

2.11.2. *Monitoring*

- Monitoring will take place allowing for the size and resources of the Association.
- The composition of the workforce, potential employees and customers, and tenants will be monitored in terms of disability.
- We will monitor the implementation and effectiveness of the equality and diversity policy.
- We will periodically report disability monitoring information to the Board.