

# Are Building Regulations the inclusion standard to meet?

22 February 2018

With the recent publication of BS8300 2018, questions have been raised as to the relevance to legislation and regulation; this article sets out to clarify the argument.

In the UK we have a variety of legislative responsibilities that directly relate to discrimination and equality, and these have particular relevance to architects when it comes to assessing designs. The most relevant is the 2010 Equality Act (EA) and following a close second, is the Regulatory Reform Order (RRO).

It must be understood that the Equality Act (EA) is a civil rather than building led legislation and it is the activity that falls under the Act, not the building. The building either enables or disables a person from accessing services or employment. There is no technical guidance to advise on how to comply with the EA in terms of the built environment. In fact, you cannot comply and nor is there a requirement under the legislation to ensure the whole of a building is accessible. It is, however, illegal to discriminate and discrimination can be the result of barriers. Is it any wonder that there is so much confusion?

The legislative responsibilities are based upon a number of factors, including the ability to pay, reasonableness and for public bodies, the obligations of the public sector duty. In practice, this means for public sector developments, one needs to give due regard to 'eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations'. There is also a requirement to review any policy in order to demonstrate due regard to the aims of the Equality Act. A brief often states, 'comply with the legislation'; this provides inadequate information for design teams to ensure (prove) that designs meet clients' obligations.



Leeds City Museum, an example of good access to a historic building.

Time and time again Building Regulations are quoted as the standard but as in the words of the regulation: 'compliance with Part M of the Building Regulations does not necessarily equate to compliance with the obligations and duties set out in the EA.'

Building Regulations only require that: 'reasonable provisions shall be made for people to: (a) gain access to; and (b) use the building and its facilities'.

Building regulations give requirements under the building control system and apply to building works. However, getting a Building Control sign off, may not be sufficient to guarantee that discrimination does not take place, they are a minimum standard.

Whereas best practice guidance is voluntary, but can become contractual if included as part of a service or build contract. Furthermore, using best practice guidance can assist in helping you advise the client on meeting their anticipatory duties under goods and service provision. It is important to note that best practice standards follow a different timeline and at times may contradict one another, it is essential that you use them to inform any design process, not dictate. They can cover similar ground, but are applied and prepared differently.

Any architect or designer has a professional responsibility to provide advice on the requirements of the legislation. While it is the service provider and employer who ultimately bear responsibility under the act, were your client to receive a legal challenge, you would be their first port of call. It is, therefore, crucial that you have understood their responsibilities, and provided a building that meets inclusion requirements now and in the future.

It is a misnomer to say that inclusion is expensive. It may cost a little more but the added benefits far outweigh the additional expenditure. The problem is that budgets for many projects are being squeezed so tight, that even basic regulatory standards, not to mention best practice, are becoming ever more difficult to achieve.

So why is an inclusive environment important today? We all know, we are an aging population and aging is a major factor in disability statistics. By the year 2037, people over the age of 85 are projected to account for five percent of the population; this is two and a half times increase since 2012, with those over 65 accounting for nearly a quarter of the population: one quarter of all families have a relative who is disabled.

None of us are average! We all age, are tall, short, fat, thin and have children who will affect our needs influencing our demands and many will experience temporary disabilities. In the UK, disabled people including elderly individuals have a disposable income of £80 billion. Make inclusion an item on every agenda, see the benefit not the foreseeable headache.

Text by Jane Simpson RIBA, NRAC  
[www.janesimpsonaccess.com](http://www.janesimpsonaccess.com)

**This is a Professional Feature edited by the RIBA Practice team. [Send us your feedback and ideas](#)**

**RIBA Core Curriculum Topic: Legal, regulatory and statutory compliance/Inclusive environments**  
As part of the flexible RIBA CPD programme, Professional Features count as microlearning. [See further information](#) on the updated RIBA CPD Core Curriculum and on fulfilling your CPD requirements as an RIBA Chartered Member.