

Speech for the Greek Council for Disabled People December 2000

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Thank you for inviting me to share the British experience on disability issues. I am very pleased to be here, with you in Athens, today.

As disabled people in Europe, we need to work together: to achieve recognition of our Civil Rights; to bring about a positive change in attitudes and awareness; and to learn from each other.

No model is perfect, we must constantly examine what changes in legislation and social policy mean to disabled people, and be vigilant in ensuring that, where appropriate, revisions are made so we can finally achieve a society where all disabled people can participate fully as equal citizens.

I want to take you through how we, in Great Britain, approached the disability agenda; how the Disability Discrimination Act (DDA) was introduced; what the Act said; what improvements have been made; and how the Disability Rights Commission (DRC) is enforcing the Act. I appreciate that what is appropriate for one country might not be so for another. But we can learn from each other.

In 1970 Parliament passed the Chronically Sick and Disabled Persons Act. It contained a provision that all new buildings to which the public were admitted should be made accessible insofar as was reasonable and practicable. A court case in 1971 showed how easily building owners could avoid making their buildings accessible. Stronger law was needed.

In the mid 1970's Britain's first, and the world's first, Minister for Disabled People, established a committee to

look at access for disabled people. Its report was called "Can Disabled People Go Where You Go?" The answer was usually no! It raised a number of issues around access for disabled people. Disabled people have suffered from restrictions placed on their independence by a society that pointed to them as being the problem - unacceptable! No society can call itself civilized and accept that there is nothing morally wrong, in making disabled people prisoners by virtue of our impairment and the failure to design society to meet our needs.

In 1981 another report was published. It was written by the Committee on Restrictions against Disabled People. This report stated that discrimination was caused by the failure of society to recognise that it excluded disabled people in many areas of life. Buses were inaccessible. So were most buildings. Insurance companies added extra premiums on to the policies of disabled people even though there was no evidence of extra risk. The solution was to change society not disabled people.

During the 1980s a Bill went to Parliament every year and every year it was defeated. But gradually successive governments began to realise that more had to be done. During the 1980s, a number of victories were won by disabled people:

In the early 1980's work began on designing an accessible taxi. For example, today all of London's taxi can carry people in wheelchairs and they have provision for people with other impairments. In the mid 1980's the access requirements for new buildings were incorporated into building regulations, which in Britain is as good as a strong law. It has had a positive impact. But each of these piece meal measures had to be fought for and faced resistance.

A comprehensive Act of Parliament was needed. It took many years but in 1995 the Disability Discrimination Act

was passed, after a 15-year struggle by disabled people and their organisations.

The DDA is divided into a number of sections reflecting its intended scope. This scope is apparent from the long title of the Act, which seeks: "to make it unlawful to discriminate against disabled persons in connection with employment, the provision of goods, facilities and services or the disposal or management of premises; to make provision about the employment of disabled persons; and to establish a National Disability Council". The provisions of the Act apply to Great Britain there is similar legislation in Northern Ireland. Although, this Act was a compromise it gave disabled people a starting position.

Broadly, the Act is structured into the following parts:

Part I Disability

Definition of Disabled People and Disability

Part II Employment

Discrimination by Employers

Enforcement

Discrimination by Other Persons

Premises Occupied under Lease

Occupational Pension Schemes and Insurance

Services

Part III Discrimination in Other Areas

III

Goods, facilities and Services

Premises

Enforcement in relation to Part III

Part IV Education

IV

Part V Public Transport

Taxis
Public Vehicles
Rail Vehicles

Part VI The National Disability Council

VI

Definition of Disabled People and Disability

Parts VII and VIII deal with supplemental and miscellaneous provisions. There are a number of schedules to the Act providing further guidance on issues such as the full definitions of "disability" and "disabled person", enforcement and procedure, premises occupied under lease and the National Disability Council.

It is important to bear in mind at all times the definition of 'disability' and 'disabled person', which is central to the operation of disability discrimination law. A 'disabled person' is defined as a person who has disability. A person has a disability if he or she has a physical or mental impairment that has a substantial long term adverse effect on his or her ability to carry out normal day to day activities. This definition is also extended to include persons who had such a disability in the past.

This basic definition is supplemented by regulations and by the statutory guidance issued by the Secretary of State.

The intention was to create a common sense definition which fitted the generally accepted perception of what is a disability and who is a disabled person and which provided certainty and avoided vagueness. The government of the day believed that the definition would cover the vast majority of the 8.6m disabled persons in Britain although it has been estimated more recently that

approximately 11.7m adults or 20% of the population are covered by the Act.

The final report of the Disability Rights Task Force recommended 154 improvements to the Act. Including the revision of the definition of disability in the Act. In particular, it recommends the extension of the definition to cover people with cancer (once it has a significant consequence on the persons life) and those with asymptomatic HIV. Furthermore, it proposes that the definition should be reviewed to ensure that there is comprehensive coverage of mental health conditions under the Act.

The definition of disability goes well beyond the stereotypical image of the disabled person and includes for example: facial disfigurement.

There is an ongoing debate about the definition of disabled people. Should the Act be amended to include people who have a genetic disposition to become disabled? Such people face discrimination. Indeed, the whole issue of genetics will be a huge issue for disabled people in the near future and those of us who are disabled must be part of the public debate.

The employment aspects of the DDA are often misunderstood. There is a great deal of focus around the recruitment of disabled people and entry into employment. However the employment requirements of the Act address more than simply ensuring access to interviews. They address factors such as ensuring that application forms are appropriately worded, that interview panels have been trained in fair selection techniques, that disabled people are treated fairly in terms of access to career development and that disabled people are able to access training courses. Consequently the reach of the DDA in this area

is extensive and requires employers to undertake a critical evaluation of day to day practices.

The employment provision of the DDA also applies to retaining staff who become disabled. Again the Act sets up a new range of considerations. Early retirement or redundancy on ill health grounds should not be the starting point. Instead employers must look at redeployment, retraining, promotion, part time working, job sharing and so forth to see what reasonable adjustments can be made to retain staff who become disabled.

There are some limitations to the employment provisions in Part 2 of the Act. Employers that employ fewer than 15 people are exempt. So are the police and fire services. The new European Directive will require the UK Government to remove these exemptions by 2006. The DRC and I very much welcome the Directive. I am sorry that the UK Government sought and obtained an exemption from the Directive for the armed forces. I hope we will be able to persuade them not to use the exemption. The DDA does not require any employer to employ a disabled person who cannot do the job even after a reasonable adjustment is made. The armed forces in the UK do not need the exemption. They have the same protection as all employers.

The DRC is currently preparing our views on the date that the UK Government should remove the exemptions. We do not wish to wait until 2006. We will also consider the type and level of support small employers need to comply with the Act.

Service providers, like employers, also have to recognise that providing fair treatment to disabled people is a not negotiable.

Unlike the employment provision the service provision of the DDA applies to all organisations that provide a service

to the public providers (with the exception of Education, private clubs etc). This includes shops, restaurants, cafes etc.

In simple terms the Act means you can not refuse to serve somebody on the grounds of his or her disability. You cannot offer a lower standard of service to disabled people and it is unlawful to charge disabled people a higher price for the same service unless the extra charge can be justified. You may also need to provide a simple aid or an additional service so that disabled people can have access to the same range of services that non-disabled people have (auxiliary aids and services requirement). You have to review how you do things on a day to day basis - at a local and organisation wide level (Policy, Practice and Procedure requirement). Finally from 2004 you have to change the physical environment so that disabled people's needs are met or find another way of providing the service.

Service providers also need to recognise that what the DDA is really about is providing good quality and excellent services to disabled customers. If you are already committed to the highest standards of customer service you will probably not find the challenges of the legislation too daunting.

Clearly, the Act did not cover all the areas we wanted and there are a number of gaps to fill: most public transport is covered by the Act, but aviation and transport by sea are not covered - this needs to be addressed. It allows the Government to issue regulations requiring buses, taxis and trains to make full provision for disabled people. Regulations have already been made requiring new buses and trains to be accessible and the regulations on taxis are awaited. It is proposed that they should meet even higher standards than the current London taxis. No, the Act is not ideal but it provided us with a baseline from which to

work to establish better laws to protect the rights of disabled people.

Not everyone will be persuaded by the force of argument so we then move to the argument of force.

In 1999 the Disability Rights Commission (DRC) was established as a Non Departmental Public Body (NDPB). It replaced the National Disability Council, which only had powers to advise the Government. The DRC's powers are much greater.

The DRC has 15 Commissioners, representing a wide range of interests including disabled people, the business, trade union and voluntary sectors as well as Scotland and Wales. Ten of the Commissioners are disabled.

The DRC has taken a comprehensive approach - concerned with all disabled people, at all stages of their lives and in all communities and works closely and in partnership with disabled people as well as our wide range of stake- holders.

So how can we help people? We have a help line that receives 1000 calls a week. These are from disabled people, employers and those offering services to the public. They want to know what are disabled people's rights. How can the DRC help? We are happy to tell them. The helpline staff will give advice to help people understand the Act and related legislation. They can help most callers.

In some cases the enquiry is more complicated. We also have a team of Caseworkers who then take over. They are the problem solvers. Can a situation be sorted out without the use of the courts? If it can they will do so. They are handling about 50 cases a week.

But if an employer or service provider insists on discriminating the DRC has legal powers to support a disabled people to take the matter to a Tribunal (this handles employment law) or a county court for discrimination in the provision of services to the public. We have already used these powers and expect to take about 85 cases through the courts each year. The DRC will also use the force of argument but if that fails we move quickly to the argument of force.

As well as helping enforce the law we have a duty to advise the Government on how the Act is working and if necessary to suggest further action. We recommended that the Government should support the European Directive I mentioned earlier. We have recommended that British Sign Language should be a recognised language in the UK. We provide advice on many disability issues.

The DRC also writes the Codes of Practice that are published under the Act. These Codes are used by the courts to help interpret the Act. We are just finishing writing the Code for the new duties that come into force in 2004 regarding making new buildings accessible.

You will note I have said nothing about education. That is because the Act says so little about it. In this regard the Act is very weak. However, the Government has announced that it proposes to introduce legislation next year to bring education within the remit of the Act. The DRC has been asked to write the Codes of Practice on education. We will also have a role in providing reconciliation in education disputes.

In the future we will consider the whether social and health services are meeting the needs of disabled people. We will establish a conciliation service for those who provide service to the public and those disabled people who have faced discrimination.

It must be understood that the DRC's agenda is not just limited to a legal compliance framework - we are keen to ensure that people recognise that civil rights for disabled people extends beyond the current boundaries of the DDA. For example we need to influence the debate around Genetics, around social inclusion and so forth.

The DRC is also about ensuring that particular issues, such as those that affect Scotland can be addressed, recognising that disabled people do not restrict themselves to one part of the UK but travel around. Consequently we need to ensure consistent standards and quality of provision across the whole of Great Britain.

The UK is happy to help and advise our European neighbours to ensure that the rights of disabled people are respected and that disabled people are treated equally and fairly. One of the task the Commission has set itself is to become an exemplar of best practice. This means that we must also learn about what works and that we can share our learning with organisations beyond the DRC. And of course we can learn from you. We have a common battle but by working together and supporting each other we can all be victorious. I wish the disabled people of Greece every success in the fight you are having for full civil rights for disabled people.

Thank you for listening. **Key words: Disability; Disabled People; Great Britain**