

P-05-993 Make retail in Wales fully accessible to disabled people

Y Pwyllgor Deisebau | 15 Medi 2020
Petitions Committee | 15 September 2020

Reference: RS20/13466

Petition Number: P-05-993

Petition title: Make retail in Wales fully accessible to disabled people

Text of petition:

During the Covid-19 pandemic, many essential stores have used methods of safety that have excluded many disabled people. Visually impaired people were not counted to the priority shopping slots before late May. All the signs and floor markings are purely visual which is useless if you have low/no vision. One way systems in stores not being wide enough for wheelchair users and disabled bays being used for a place for people to queue.

Additional Information

As we're coming out of lockdown disabled people are facing more challenges. Buses and trains have sealed off disabled bays, the deaf can't lip read with people wearing facemasks and with the opening of bars, cafes and restaurants, more outdoor seating is going to be made possible this poses an increased risk to disabled people as most of the time outdoor seating spills over on to public space and causes hazard and obstruction.



1. Background

The accessibility impacts of changes to our built environment as a result of the pandemic has been a key concern as businesses have gradually re-opened.

1.1. Equality Act 2010 requirements

There are three sections of the Equality Act 2010 that are relevant to this issue.

Duty to make ‘reasonable adjustments’

Section 20 imposes a duty on providers of goods, services and facilities to make **reasonable adjustments to avoid a disabled person being placed at a ‘substantial disadvantage’** compared with a non-disabled person when accessing services and facilities.

The duty contains three requirements:

- changing **the way things are done**;
- making changes to overcome barriers created by the **physical features** of the service provider’s premises; or
- providing **extra aids and services** like providing extra equipment or providing a different or additional service.

The Act **does not prescribe what a reasonable adjustment might be**, as this is to be decided according to the particular circumstances of each individual case.

The Equality and Human Rights Commission’s guidance states that **what is reasonable will depend on the size and nature of the business, among other considerations**. So what is considered a reasonable adjustment for a large organisation like a bank, may be different from what is a reasonable adjustment for a small, independent shop.

General public sector equality duty

Section 149 of the Equality Act 2010 creates a single equality duty for the public sector in England, Wales and Scotland. The **general public sector equality duty** requires public authorities, and any organisation carrying out functions of a public nature, to consider the needs of protected groups (e.g., when delivering services and in employment practices).

The general duty requires public authorities to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

Specific public sector equality duties for Wales

Section 153 of the Act also gives Ministers in England, Wales and Scotland the power to impose **specific duties** through regulations. The specific duties are legal requirements designed to help public authorities meet the general duty.

The **specific public sector equality duties** for Wales place various obligations on most Welsh public authorities (such as local authorities or health boards) including (among others):

- producing **equality objectives and Strategic Equality Plans**;
- **engaging** with people from protected groups in carrying out its functions;
- assessing the **equality impact** of decisions; and
- collecting **equality information**.

1.2. Equality and Human Rights Commission

The Equality and Human Rights Commission (EHRC) is the regulator of the Equality Act 2010. Its Chief Executive Rebecca Hilsenrath wrote an **open letter** to the British Retail Consortium (BRC) in May following an initial exchange, outlining the BRC's **failure to acknowledge the legal obligations on retailers to make reasonable adjustments for disabled people**. The letter emphasises that “voluntary support does not negate the legal requirements on retailers”.

The letter also highlighted that the **legal definition of ‘disability’ is much wider than the group of people who were required to ‘shield’**, meaning that “retailers risk leaving many disabled people isolated and unable to shop for essentials”.

The letter also highlighted that the EHRC are **reviewing over 300 claims against major supermarkets** for failure to consider the needs of disabled people and make adjustments to allow people to shop for essentials.

Due to ongoing concerns that some retailers are failing to make reasonable adjustments for disabled customers, on 3 September the EHRC published new **guidance** which explains the simple steps retailers can take to ensure they comply with the law.

It recommends that retailers:

1. Provide a service that meets the needs of all of their customers;

2. Plan ahead to think about the needs of their disabled customers;
3. Communicate with their customers, and
4. Train their staff.

The guidance contains a range of practical ways to improve accessibility in shops to ensure compliance with the law.

2. Welsh Government action

The Welsh Government's response to the petition highlights:

- "Local Authorities are required to undertake **Equality Impact Assessments** and **engage proactively with disabled people** where there is any potential for an adverse impact. When requested, Local Authorities need to be able to provide evidence that this has taken place before [the Welsh Government releases] funding";
- "Welsh Government is working closely with **retailers and the Welsh Retail Consortium** to ensure adequate steps are taken to accommodate the needs of disabled consumers within the constraints of social distancing protocols";
- "Meetings between members of the Welsh Retail Consortium and disability organisations have proven useful for sharing information and feedback on the communications and adaptations required in meeting the needs of disabled consumers and workers. As a result, many retailers have offered **dedicated hours for elderly and vulnerable consumers**, as well as allowing **personal assistants** to shop alongside consumers when needed. Supermarkets have also introduced **electronic vouchers or gift cards**, allowing family, friends and volunteers to shop for others, and are providing staff with **training** on how to better meet the needs of their disabled customers", and
- "As the economy reopens, Welsh Government **expects the accessibility needs of the public to be fully met wherever possible**, and where the 2m distancing laws makes that difficult, adequate alternative arrangements to allow access are put in place".

3. Welsh Parliament action

The Welsh Parliament's Equality, Local Government and Communities Committee recently published a report on **inequality and the pandemic**. One of the main messages from the report was that accessibility needs to be improved.

The Committee state that:

“The pandemic has presented complex challenges for disabled people. The changes made to our environment and lives should not lead to a reduction in people’s independence, and the Welsh Government needs to ensure that the views of disabled people are taken into consideration when making decisions about the ‘new normal’.”

The Committee made a range of recommendations for the Welsh Government about accessibility, including that it should:

- run a **social distancing public awareness campaign** to emphasise the different challenges the ‘new normal’ presents to different people;
- provide **swift guidance to re-opening businesses on physical and communication accessibility**;
- establish a **priority grocery delivery scheme for disabled people** who are not shielding (similar to Defra/RNIB scheme in England);
- appoint an **accessibility lead** within the Welsh Government to oversee the production of all key public health and other information in accessible formats, and
- ensure that each major policy or legislative decision is accompanied by an **effective equality impact assessment**, and an analysis of the impact on human rights. Both should be published online and copies sent to this Committee for review.

The Welsh Government is required to formally respond to the recommendations in September.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.