

P-06-1331 Consider implementing legal requirements to private businesses to ensure they are accessible to all

Y Pwyllgor Deisebau | 5 Mehefin 2023
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Reference: SR23/5702-5

Petition Number: P-06-1331

Petition title: Consider implementing legal requirements to private businesses to ensure they are accessible to all

Text of petition: Libanus Primary have been looking at the social model and as a result explored our local town to see how accessible and inclusive it is for able and disabled individuals. They wrote to the council who informed them that privately owned premises don't need to follow the stringent standards that government businesses do. Therefore Libanus Primary would like to address this issue to ensure all members of society have a smooth transition through our town and country.

Libanus Primary have been saddened by the reality of living with a disability and would love to make a positive difference to the lives of all of our Welsh citizens. Through listening to the story of an advocate from Disability Wales it is clear there is more that can be done to ensure Wales is an inclusive country for all.



1. Background

The Equality Act 2010

Section 20 of the Equality Act 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.

The Minister's response to the petition refers to the duty to make reasonable adjustments and to guidance for service providers and states that:

The duty is that some people or organisations like employers, shops, local authorities and schools must take positive steps to remove the barriers faced by disabled people. This is to ensure disabled people receive the same services as non-disabled people.

2. Welsh Government Action

The social model of disability

Historically, policymakers and service providers have viewed disabled people through **a medical model**, where a person's impairment is seen to be the thing

which disables them. The aim is to 'fix' the disabled person so that they fit in better with society, rather than society adjusting to accommodate people with impairments. The social model of disability was developed by the disability rights movement and makes an important distinction between 'impairment' and 'disability'.

The Welsh Government has committed to embedding the social model of disability and **removing the barriers that are limiting the independence of disabled people**.

Taking a social model based approach is about **looking at the barriers across society**, these barriers can include physical and organisational barriers and negative attitudes which **act as an obstacle to ensuring the inclusion and participation** of disabled people in their daily lives and throughout their life course.

In her response to petition, the Minister for Social Justice reaffirmed the Welsh Government's commitment to **embedding the social model of disability** and states that:

Since formally adopting the Social Model of Disability in 2002, the Welsh Government has been committed to applying the model throughout everything it does.

The right to independent living

The Welsh Government's 'Action on Disability: The Right to Independent Living' Framework was published in 2019. It sets out several actions to improve access for disabled people that are relevant to businesses including by exploring the use of an accessibility rating which would apply to tourism and to historic sites and monuments in state care.

The Disability Rights Taskforce

In July 2021, the Disability Equality Forum published the report: 'Locked Out: Liberating Disabled People's Lives and Rights in Wales beyond COVID-19'. The Welsh Government set up a Disability Rights Taskforce to address the issues highlighted in the report and to develop actions for a new Disability Rights Action Plan.

In response to the petition, the Minister set out the work of the Taskforce:

It brings together people with lived experience, Welsh Government Policy Leads and representative organisations to identify the issues and barriers that affect the lives of many disabled people. The Taskforce works within the scope of the Welsh Government's legal remit and not in areas that solely fall under the UK Government's responsibilities.

The Taskforce will run until 2024, with a 'Disability Rights Action Plan' expected in March 2024. The Minister said:

I expect the work of the Disability Rights Taskforce to result in a clear and tangible plan of action to advance equality for disabled people in Wales. The plan will be co-produced with disabled people and disabled people's organisations to ensure that Welsh Government is putting measures in place that will have positive impacts in the areas needed to ensure barriers are systematically removed for disabled people.

United Nations Convention of the Rights of Disabled People

The Welsh Government has committed to incorporate the UN Convention on the Rights of Disabled people into Welsh Law (Article 9 recognises the right of disabled people to live independently and participate fully in all aspects of life).

Disability Wales has been advocating the incorporation of the Convention for many years and argues that implementation of the UNCRDP is the best next step to building a fully inclusive Wales. The charity says:

It provides the key to progressing towards a Wales in which all people, especially disabled people, can freely operate in society, where no one is disabled by society's attitudes to their impairments and all can live independent lives, doing whatever it is they want.

3. Welsh Parliament action

On 31 January 2018, there was a short debate led by Suzy Davies AM called Getting in there: Scores on the doors for disability access and defibrillators. The debate discussed the merits of a petition which called for all **'premises in Wales to be awarded with an Access Certificate number similar to the Food Hygiene Certificate'** to encourage business to become more inclusive.

The Welsh Government's 'Action on Disability: The Right to Independent Living' framework included a commitment to take forward recommendations arising

from the petition for the **'Scores on the Doors' accessibility rating campaign'** and explore how this could be developed on a Wales wide basis. In correspondence to the Petitions Committee in February 2020, the Deputy Minister and Chief Whip said a **pilot for this project** was planned later in the year.

Following a **debate** led by Mark Isherwood MS in November 2022, the Senedd is calling on the Welsh Government to create a funding mechanism and clear guidance on changing places toilets so that there is equitable provision across the country.

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.