



# DRAFT BUILDING REGULATIONS 2018

COMMENTS FOR CONSULTATION  
EQUALITY & HUMAN RIGHTS COMMISSION

## Introduction

The Equality & Human Rights Commission (EHRC) have reviewed the proposed changes to the Building Regulations purely from an equality, equal access perspective. The comments below have been made in the light of information gathered by the EHRC over the last three years.

The Constitution of St Helena, Ascension Island & Tristan da Cunha 2009 protects the individuals and groups from discrimination, in particular it says:

### Protection from discrimination

21. (1) Subject to subsection (4), no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to subsections (4) and (6), no person shall be treated in a discriminatory manner by any organ or officer of the executive or judicial branches of government or any person acting in the performance of the functions of the St Helena Public Service or any public authority.

(3) In this section, the expression “discriminatory” means affording different treatment to different persons on any ground such as sex, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, age, disability, birth or other status.

(4) Nothing contained in or done under the authority of any law shall be held to breach this section to the extent that it has an objective and reasonable justification and there is a reasonable proportion between the provision of law in question or, as the case may be, the thing done under it and the aim which that provision or the thing done under it seeks to realise.

(5) No person shall be treated in a discriminatory manner in respect of access to any of the following places to which the general public have access, namely, shops, hotels, restaurants, eating-houses, licensed premises, places of entertainment or places of resort; **but the proprietor of such a place has a duty to provide amenities and equipment facilitating the access of disabled persons only to the extent provided by a law.**

It is therefore necessary that the Building Regulations carefully balance the right not to be discriminated against with the difficulties imposed by heritage buildings, narrow footpaths and road ways, limited parking and an underperforming economy.

## General Comments

1. The language in the 2018 draft is simpler than that used in 2001. From a human Rights perspective this is excellent plain English makes documents more accessible to us all.
2. The document is intended to be read by professional builders but (we assume) also by those self-building/planning to build. Large print versions should be available on request for those with visual impairments.
3. Definition of disability to match that of the United Nations –  
'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'.  
The one used in this draft is limited to walking, hearing and sight difficulties only.

4. The amount of the document given over to disabilities is very small less than one page out of 58. While the EHRC is not suggesting that the total of nearly 200 page over three volumes issued in the UK is necessary, more detail on lighting, rails, signage, hearing loops and floor surfaces is required.

## Recommendations

The EHRC recommends that instead of labelling people as disabled the problem is addressed from the angle of universal access for all. The right to dignity is fundamental to us all. This text taken from the Universal Design approach (<http://universaldesign.ie/Built-Environment/Building-for-Everyone/>) used in Southern Ireland says it all.

People are diverse - some are left-handed and some right-handed - and vary in their age, size and functional capacities. Illness or disability (whether temporary or permanent) can also affect characteristics such as a person's mobility, dexterity, reach, balance, strength, stamina, sight, hearing, speech, touch, knowledge, understanding, memory, or sense of direction.

**People of diverse abilities should be able to use buildings and places comfortably and safely, as far as possible without special assistance.** (our emphasis). People should be able to find their way easily, understand how to use building facilities such as intercoms or lifts, and know what is a pedestrian facility and where they may encounter traffic.

Given the wide diversity of the population, a universal design approach, which caters for the broadest range of users from the outset, can result in buildings and places that can be used and enjoyed by everyone. That approach eliminates or reduces the need for expensive changes or retro fits to meet the needs of particular groups at a later stage.

It is good practice to ascertain the needs of the range of expected users as early as possible, and to check the practicality and usability of emerging designs with a diverse user panel.

Designing for one group can result in solutions that address the needs of many others. For example:

- level entry (Step-free) entrances facilitate not just wheelchair users but also people with buggies; people with suitcases or shopping trolleys; people using walking or mobility aids; and people with visual difficulties
- larger toilet compartments provide easier access to wheelchair users; those with luggage or parcels; parents with pushchairs or accompanying small children; those using walking or mobility aids; and larger-sized people
- clear, well-placed signage that uses recognised symbols or pictograms helps people with reading or cognitive difficulties, and those whose first language is not English

Sometimes one solution will not suit all and a range of options will need to be provided. For example:

- providing both steps and a ramp where there is a change in level

- providing counters at different heights to facilitate use at standing height, sitting height, and by people of small stature

To give some recent local illustrations

- The Counter at the pharmacy is too high for many not just the disabled, yet a lot of thought went into the wheelchair access and space for turning.
- A ramp has replaced the step between the waiting area and the triage room at the Outpatients but this is too steep/short for a wheelchair user to use alone, is too difficult for someone with walking difficulties to get down or up and it has no hand rail.
- The Market has been renovated in the last three years yet there is no lift to the upper floor making access to the shops difficult for the physically disabled, people on crutches, the sight impaired, anyone with pushchairs and/or small children and the elderly.
- A lower counter in the bank and the post office would also be of benefit to many.

This change in perspective means that we are not marginalising or patronising a minority group but we are making access easier and extending to everyone possible the dignity of independence.

## Detailed Comment

2001	2018	Comment
<b>(1) Reasonable provision shall be made in all newly erected or substantially altered buildings so that— (a) disabled persons can reach the principal entrance to the building from the edge of the site curtilage;</b>	(1) Reasonable provision shall be made in all new or substantially altered buildings so that: a) Persons with disabilities can reach and use the principal entrances; and	No substantive change. This would not apply to listed, historic buildings leaving many of our public services inaccessible. Some definition or illustration of reasonable
<b>(b) elements of the building do not constitute a hazard for a person with an impairment of sight;</b>	(b) Elements of the building shall not constitute a hazard for persons with disabilities, including impaired sight;	Improvement in that it includes disabilities as well as impaired sight.
<b>(c) disabled persons can use the building's facilities;</b>	(c) Except in dwellings or flats (unless specifically designed as accommodation for persons with disabilities), persons with disabilities can use the building's facilities including by provision of a lift or stair lift where necessary;	Is this something that will be insisted upon? The situation in the Market in 2016 should not have been allowed to happen, a public building must have to have a lift to upper floors.
<b>(d) adequate sanitary accommodation is available for disabled persons;</b>	(d) In any building to which the public has access or is a place of employment, at least one toilet designed for wheelchair use is available and accessible;	A big improvement however if they are limited to disabled only, then people with buggies, pregnant or larger individuals will still struggle.

2001	2018	Comment
<b>(e) there is suitable accommodation for disabled persons in audience or spectator seating; and</b>	(e) There is suitable accommodation for persons with disabilities in audience or spectator seating;	There needs to be guidance on counter heights in shops, bars etc. the pharmacy, the bank and the post office etc. shorter people, children and wheelchair users cannot reach.
<b>(f) there are suitable aids to communication for persons with an impairment of sight or hearing in auditoria, meeting rooms and reception areas.</b>	f) There are suitable aids to communicate for persons with an impairment of sight or hearing in auditoria, meeting rooms and reception areas.	This should be extended to include all buildings accessed by the public i.e. the Post office, bank etc. Lighting is also important for some visual impairments. Pictorial signage for those with learning difficulties should also be included.
<b>(2) If, as part of a reconstruction of a building, it is impracticable to make adjustments to the level of the existing principal entrance or any other appropriate existing entrance, to permit access for wheelchair users, or to provide a new entrance which is suitable, the other requirements of this Regulation shall still apply</b>	(2) In the case of alterations to a building that is not a dwelling or a flat and it is impracticable to make adjustments to the level of the existing principal entrance, or any other appropriate existing entrance to permit access for wheelchair users: a) The remaining requirements of this regulation shall still apply; and	
	b) Portable ramps shall be provided for use at the entrance in compliance Part D.3.	Good
<b>(3) Where a building is extended, there is no obligation to carry out improvements within the existing building to make it more accessible to and usable by disabled persons than it was before. However, the extension shall not adversely affect the existing building with respect to access to, and use of, the building by disabled persons. However if an extension is independently approached and entered from the</b>	(3) Where any building is to be altered or extended, there shall be no obligation to carry out work within the existing building, solely to make it more accessible and usable by persons with disabilities, but: a) Any alteration or extension shall not make the existing building less so; and b) Any extension shall be at least as accessible and usable by persons with disabilities as the building being extended.	Not helpful. This, if I understand it correctly, means that almost any extension to a building could continue to deny access to the disabled, elderly, people with small children etc. The EHRC cannot understand why a new extension should not include access for all. Particularly a building that is public.

2001	2018	Comment
<b>boundary of the site it shall be treated in the same manner as a new building</b>		
<b>(5) When a building is altered there shall be no obligation to improve access and facilities for disabled persons. However, the level of provision after alteration shall not be any worse. Facilities may be moved but their suitability and access to them shall not be reduced</b>	See above	See above.

### Stairs and Ramps

Many people rely on a rail to assist them climbing stairs or navigating ramps. Often however there is only a hand rail on one side. This is fine if you have two functioning arms/hands but if you have the use of only one arm you need the rail on both sides so that you can hold on with your functioning arm both ascending and descending the stairs.

For the partially sighted or blind a change in surface to indicate the edge of the stair is a must. There appears to be no specification as to lighting levels on stairs and ramps.

Thank you for reading this submission. The EHRC will be happy to assist with further information and assistance if required.