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Are Britain's Higher Education Institutions Prepared for Prosecution in September 2005 Due to Their Lack of Disabled Access?

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In September 2005, Britain's higher education institutions become liable to prosecution if a student or staff member believes there to be disability discrimination relating to access to buildings, facilities and other areas. This is because the Special Educational Needs and Disability Act 2001 (SENDA) made educational institutions responsible for implementing Part IV of the Disability Discrimination Act 1995 (DDA). This research note presents a case study constituting an audit of one university. Finding that, despite a programme of access, the university lacks many features that would be expected, the study is offered as a shot across the bows to

administrators in UK higher education institutions.

Responsible university bodies have known for many years about the required changes to physical access at institutions. The Disability Rights Commission (DRC) has provided a range of advice, guidelines and prompts to encourage advanced preparation (see www.drc-gb.org). Those guidelines included recommendations for institutions to undertake audit-surveys to assess their preparedness, and the DRC commissioned several case studies (see e.g. NFER 2003). The case studies tended to examine work that had been done at institutions whereas here we report on what remains to be done. Since the university assessed here is unlikely to be an isolated case, we feel the issue warrants the attention of a broader readership.

Part IV of DDA 1995 obliges universities to change various physical features to eliminate disability discrimination with respect to access. Part M of the 2004 version of Building Regulations, *Access to and Use of Buildings*, provides specific guidelines regarding physical access and other requirements. Information in that document was used to develop a template for an audit-survey. A summary of relevant aspects of the regulations will illustrate areas covered by the survey and provide the context for what follows. Key relevant aspects were:

- *Site boundaries and car parks* should preferably be level. Where not, there should be a gentle gradient over a long distance or a series of shorter parts with steeper gradients. If the gradient is too steep it should be ramped. The surface should be easy to travel on, there should be room to approach the building, and it should be well lit.
- *On-site parking and setting-down* should be near entrances, with sufficient room for a wheelchair-user to enter and leave the car, and space to travel to the entrance.

- *Ramped access* should have as shallow gradient as possible. There should be support on both sides of the ramp, and room to manoeuvre and open doors.
- *Stepped access* should have a warning well in advance. It should have a non-slip surface and handrails. *Handrails* should be easy to grip, spaced away from walls and at a convenient height.
- *Accessible entrances* should be clearly sign-posted, recognisable, and have weather protection. The threshold should be level. If universal access cannot be gained at the main entrance, there should be an alternative.
- *Doors* should be accessible to all, wide enough for all to enter, have visibility panels and shut when not in use. Automatic doors are preferred. Manual doors should stay open long enough for entrance or exit, have enough room for a wheelchair-user to manoeuvre and open the door, well positioned handles and clear instructions. Power entrance doors should have clear controls. For glass doors, it should be obvious whether they are open or shut.
- *Entrance lobbies* should be big enough to manoeuvre a wheelchair or pushchair, be free from hazards, and have a doormat.
- *Entrance halls and reception areas* should be easily accessible. Reception desks should be an appropriate height for wheelchair-users and allow close contact with a server for lip reading. Information about the services in the building should be well signed.
- *Internal doors* should preferably not have self-closing devices, so they stay open for longer.
- *Corridors and passageways* should be wide enough for wheelchair manoeuvring and to allow people to pass a wheel-

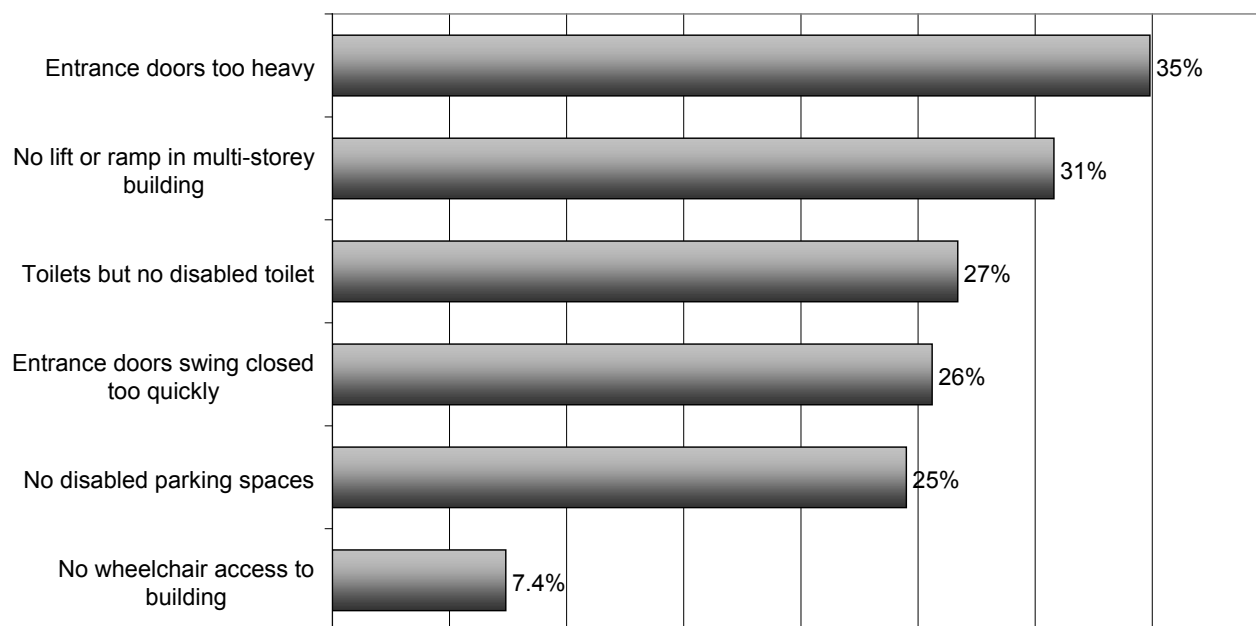
chair-user in the corridor. They should be well lit, have a contrast between the walls and floor, and have good acoustic design.

- *Internal lobbies* should allow a wheelchair-user to be clear of one door before opening the other.
- *Passenger lifts* are the most suitable for vertical access as all can use them. They should be well signed within the building, allow enough space and time for a wheelchair-user to enter or leave the lift, and should allow room for a wheelchair-user and at least one other passenger. Audio and visual information about lift usage should be provided.
- *Lifting platforms* are an alternative to passenger lifts. They should have reachable controls and audio and visual information. *Wheelchair platform stair-lifts* are only for exceptional circumstances, and are only suitable with correct instruction

and supervision.

- *Internal stairs, ramps and handrails* should meet the same standards as the external ones.
- *Aids to communication* can be many things. Practical aids include braille, loop systems and assistive listening devices, good lighting, good signage, designs that allow close contact with service providers to facilitate lip reading as required, and appropriate floor materials for people with visual impairments.
- *Wheelchair-accessible unisex toilets* should be easily reached, and have enough space for a wheelchair-user to approach, transfer and use the sanitary facilities. Cubicles should have horizontal and drop-down support rails, have room for manoeuvring and allow the user the opportunity to be able to wash and dry their hands whilst sat on the toilet. They should have an accessible pull-cord

**Figure 1: Discrimination against Wheelchair Users
(% of relevant buildings)**



alarm for emergencies, and provide paper towels as well as a hand-drier because not everyone can use the latter.

The *Building Regulations* provided the principle reference point for the development of the present audit-survey. The research site was a mid-size university campus in the southwest region of the UK. The university is anonymous for present purposes as the intention is not to chastise this particular university which is likely to represent the rule rather than the exception. In fact, during the research it became evident that this university had undertaken a deliberate programme of modification to physical features, and it is therefore possible that it represents institutions which are at the “better” end of the scale in terms of meeting the requirements.

The survey detailed here was conducted independently of the university body with responsibility for tackling DDA issues. Hence, the survey has the credibility of independence, but was limited to areas which did not require official access. As a result, lecture halls, accommodation and areas requiring special access were not surveyed. In relation to some specifics including corridor and door widths, door weights and speeds, a judgement on their appropriateness was made by an adult female who passed through, or tried to pass through, in a wheelchair. The audit-survey was complemented by a small number of in-depth interviews with disabled university staff members, though only a brief glimpse of the interviews is given in what follows.

Table 1: On-Campus Access Discrimination Against Wheelchair-Users

Location (n=number of relevant buildings)	% of relevant buildings
Car Parks	
No disabled parking (49)	25%
Of buildings with disabled parking (37):	
Poorly signposted spaces	81%
No added space width	46%
Parking is away from entrance	41%
Main Paths to Buildings	
Path indistinct from road (42)	38%
Path uneven	28%
Path obstructed	19%
No handrails for change in path level (22)	86%
Wheelchair Ramps to Buildings	
No wheelchair ramp (54)	39%
At least one ramp handrail missing (33)	76%
Building Entrances	
Door too heavy for wheelchair-user (43)	35%
Door swings closed too quickly (43)	26%
Unclear door instructions: push/pull (54)	72%
Reception desk at inappropriate height	44%
Multi-storey buildings (n=26)	
No lift	31%
No ramp between floors	100%
No rear-wall mirror in lift (13)	31%
Disabled Person's Toilet	
No disabled toilet (49)	55%
Toilets but no disabled toilet (30)	27%
Door does not open outwards (22)	41%
Door not easy to lock/unlock (22)	27%
No drop rail next to toilet (22)	23%
No emergency assistance pull cord alarm (22)	36%
Washbasin, soap dispenser and hand-drier not in reach from toilet (22)	59%
Absence of paper towels or hand-drier (22)	100%

Two acknowledgements are necessary prior to the presentation of findings. First, since field-work was conducted in early 2005, the university in question could, in theory, have subsequently addressed some of the issues raised herein prior to September 2005. Second, the findings presented here concentrate upon potential transgressions of DDA. We note that the university did meet many of the requirements and had clearly undertaken a programme of physical design changes to address the issue. Perhaps what follows should preferably be viewed as assessing the shortfalls that could be overcome with further iterations and additional resources.

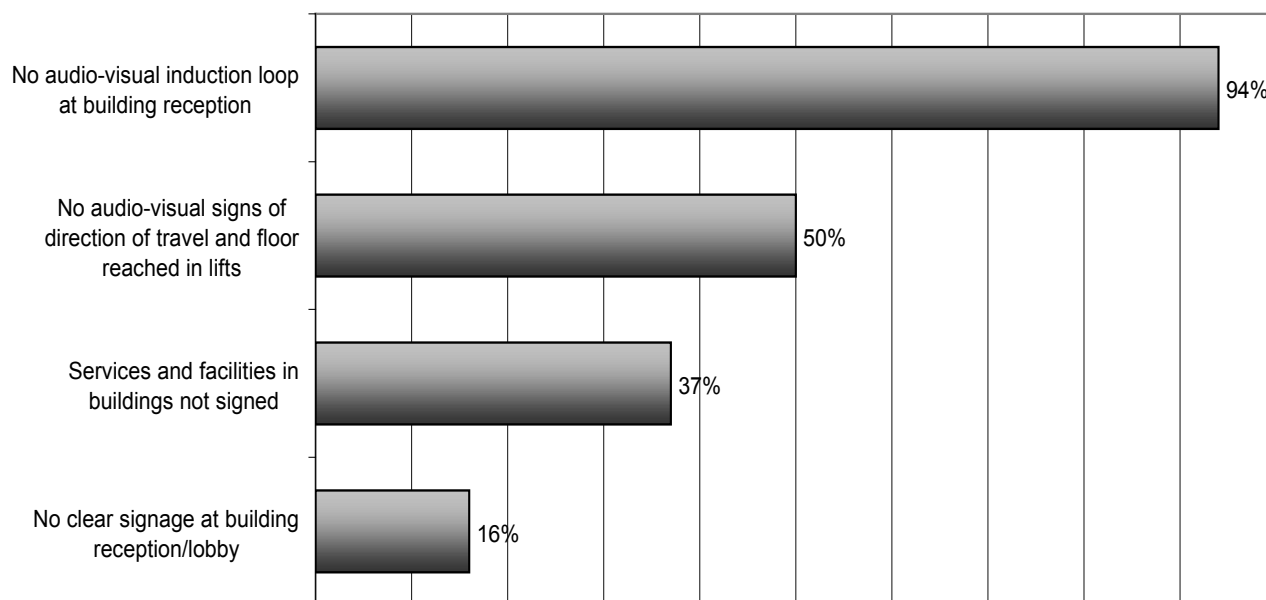
Key findings of the audit relating to discrimination against wheelchair-users are summarised in Figure 1 and Table 1. Table 1 contains more information than is discussed in the text. Key findings relating to discrimination against persons with sensory impairment are shown in Figure 2. The number of relevant buildings or entrances is given in the table and figures. Forty-nine buildings were surveyed, five of which had two main entrances for a total of fifty-four main entrances.

Four of the fifty-four main entrances (7.4%) surveyed did not allow independent access by a wheelchair. Although this is arguably the most blatant exclusionary practice, other indicators suggest exclusion is more widespread. Many buildings did not have access ramps, and well over a third of main access doors were either too heavy or too speedy for wheelchair-users, thus presenting difficulties and requiring, at best, a belittling request for assistance. One interviewee observed:

“You have to actually take a run at them [the doors] to make them open. I went to a graduation at [a different university] about two summers ago and in the Department of English at [that university] they had pressure pads on the wall. So you just hit the pressure pads by each fire door and they open. So that would be a good thing to have for wheelchair-users at [this university].”

Since almost a third of multi-storey buildings did not have a lift or ramp to non-ground floors, wheelchair-users were effectively excluded from

**Figure 2: Discrimination against Sensory Impairment
(% of Relevant Buildings)**



these buildings. A quarter of on-campus car parks did not have disabled spaces, while others suggest tokenism due to either the absence of additional space for wheelchair manoeuvres (46% of car parks with disabled spaces) and/or a prohibitively long distance between the disabled space and the relevant building (41%). One interviewee complemented a particular building, although it is the implied exclusion from others that is arguably most apparent:

“I try to organise most of my meetings in this building [because] this building is very good. I think this building might be an example of good practice around the university.”

Many of the main paths to university buildings did not meet requirements. Paths were often indistinct roads, uneven and/or obstructed. Where paths changed levels, the vast majority (86%) did not provide handrails for wheelchair-users as recommended by the Building Regulations.

Only four in every ten entrances had a wheelchair ramp, and three quarters of these were absent at least one handrail. In addition to doors being too heavy or closing too quickly for the non-Olympic wheelchair-user, there were few clear Push/Pull instructions at doors. Almost half of reception desks were of an improper height for use by wheelchair-users who did not have monster truck tyres. While almost a third of multi-storey buildings did not have a lift, those which did often failed to have a rear-wall mirror, thereby potentially restricting the vision and egress of wheelchair-users.

Over half of the 49 buildings that could be accessed (55.1%) did not have a toilet for disabled persons. This does not necessarily indicate discrimination however, as some buildings did not have toilets of any kind. Of buildings with toilets for non-disabled persons (arguably the preferable denominator), a quarter did not have an accessible toilet (8 of 30). Where accessible toilets existed, none of them met all aspects of

the *Building Regulations*. Many cubicle doors inappropriately opened inwards, and around a quarter had what the survey deemed ‘problematic’ (overtly awkward) locks. A quarter of cubicles lacked the necessary handrails, close to 60 percent did not have the hand-basin within reach of the toilet, and none had both paper towels and hand driers (a regulation because not all users can use driers).

Survey information was also gathered on physical access for persons with sensory impairments, of which a brief overview is given here. The *Building Regulations* note the importance of direction signs and information signs, the need for which was noted by one staff member who was interviewed:

“Because I’m deaf, I don’t always ask where things are because if I get someone who speaks softly or quietly I can’t hear them. So I will really look for signage. It needs to be clear so I can see where I’m going and I don’t need to ask anyone.”

Key findings relating to discrimination against the sensory impaired are shown in Figure 2. Hardly any campus buildings had an induction loop in reception, though the presence in some instances indicates that there was institutional knowledge of this facility. However, with only half of buildings exhibiting directional signs, and over a third failing to sign their services and facilities, there was a clear suggestion of discrimination against persons with hearing impairments. In some instances, even where it was clear that some effort had been made to improve access, it had not succeeded:

“Unfortunately there has been a new sign put up showing the layout of the campus. I don’t find the fonts big enough. It’s not clear. I would like to see more definition. I want to see where I am at that moment in time. I think that could be looked at and redeveloped.”

A sentiment echoed by a colleague:

“Quite often the numbers on doors are put up high and they are quite small. So signage in buildings is another one [problem] [for me. In the Institute of [a particular academic discipline], I go along on tip toes trying to get up to the sign. And that building’s just been re-done!”

This case study does not profess to examine all access requirements that would eliminate disability discrimination. The emphasis here was upon highlighting this important contemporary issue by identifying problematic areas. There were many instances of good practices that are not discussed herein for reasons of brevity. Methodologically, the case study further demonstrates the utility of the observational audit-survey method. A tick-box observational survey requires relatively few resources, and is a useful monitoring technique to complement interviews and verify statements of university bodies.

While the likelihood of prosecutions in September 2005 may appear small, and the likelihood of class-action suits smaller, the consequences of either would be, at the very least, bad publicity for the administrators and institutions involved. This should make senior university administrators sit up and think, and perhaps revisit their programme of physical design change to ensure it is sufficiently comprehensive.

It is possible that universities could claim that they are not required to meet the specifications of the Building Regulations. There appear to be two possible get-out-of-jail-free loopholes that they might seek to exploit. The first is that institutions could claim the legislation only requires them to make “reasonable” adjustments (a term used in the Disability Discrimination Act 1995), and that this is therefore a subjective judgment call. The second is that institutions could claim they are only required to be “responsive” to requests as they arise after September 2005 (again, the term “responsive” was used in the official documents). However, both potential loopholes are illusory. Both are con-

tradicted by the wealth of information, advice, guidelines and codes of practice that have been provided, as well as the evidence that some steps have been taken in the right direction. The Code of Practice of the Disability Rights Commission notes that responsible bodies have a clear *anticipatory duty*:

“Failure to anticipate the need for an adjustment may mean it is too late to comply ... when it is required. Lack of notice would not of itself provide a defence to a claim that an adjustment should have been made” (DRC 2002; 54-5).

Whether or not it is deemed “reasonable” for responsible administrative bodies to knowingly and systematically exclude disabled persons from higher educational institutions may therefore prove to be a matter for the courts to decide.

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Emily Godson graduated from the Department of Social Sciences at Loughborough University in 2005 having prepared a research thesis focused upon disabled access. The thesis formed the basis for the present study.

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