

# Defining Impairment and Disability

**A disabled person is a person with an impairment who experiences disability. Disability is the result of negative interactions that take place between a person with an impairment and her or his social environment. Impairment is thus part of a negative interaction, but it is not the cause of, nor does it justify, disability.**

**1.0 Impairment:** an injury, illness, or congenital condition that causes or is likely to cause a loss or difference of physiological or psychological function.

**2.0. Disability:** the loss or limitation of opportunities to take part in society on an equal level with others due to social and environmental barriers.

Appendix A is an explanation of the thinking behind the definition.

Appendix B contains a phrase-by-phrase analysis of how the text of the NOG social definition can be defined precisely in organisational terms.

# Defining Impairment and Disability

## Background

Members of the Northern Officer Group (NOG) have formulated the following definition. NOG is an organisation of disabled people who work in local government. The definition has been prepared in response to the particular barriers experienced by our members during their attempts to bring about organisational change within local government.

## The importance of definitions

From our experience of working in local government, we have learnt that definitions of disability can influence the way in which non-disabled people respond to disabled people. That is, a definition can place limits not merely on what is possible, but what is 'thinkable' in an organisation. This is particularly so when the definition is built into organisational policy, procedure, and practice, and used in training sessions and guidance notes.

## The role of definitions in organisational change

Organisations (whether they be community groups or large local authorities) are, at their simplest level, a series of relatively coordinated and predictable events: for example, people come and go at more or less predictable times and are expected to carry out predetermined tasks in a relatively predictable manner. Within organisations, people have to give reasons for changing the rules that guide and shape such events.

The validity of the reasons is often measured by making judgments about those people who 'need' flexibility and organisational resources, and those who simply 'want' them. For example, distinctions are made between those people who 'need' to start work after nine thirty because of taking children to nursery and those who 'want' to start work later because it is simply convenient for them. Similarly, when someone takes 'sick leave' they are expected to show that they need to stay at home and not just that they want to.

The weight given to any particular definition of want or need depends on many things including the authority of the person putting the case. For example, a manager's arguments may carry more weight simply because of their position in the organisation. Also, the language for talking about needs and wants will formulate the sort of questions to be asked and the knowledge used for devising solutions to the problem. Thus, the language used does not simply reflect reality it creates it within particular relations of power.

As things are now, people with impairments who require changes in organisational rules are encouraged to show that it is their individual impairment that gives rise to a need for organisational change. For example, 'I can't sort the mail because I am

partially sighted!' The organisation is thus asked to respond to an individual's (tragic) loss.

This individual approach to disability gives rise to two potential problems.

Firstly, because people with impairments are forced to articulate their needs in terms of deficiencies in their own bodies they consistently have to show that they are sub-standard; that their impairment equates to a deficiency in their whole identity.

Secondly, when organisational change is founded on the needs of an individual, change is seen as a 'one-off' arrangement. For example, 'we have made arrangements for Smithers in accounts because she's partially sighted'. The problem is that such organisational arrangements often depend on the good will of particular colleagues, who, for example, choose to make time to arrange audiotaping. However, this sort of arrangement is fragile - it is likely to break down if the helpful colleague is on holiday or changes job. Furthermore, if say, the accounting procedures that facilitate the helpful colleague's actions change, such change may easily fail to acknowledge the existence of an informal adjustment. Also, arrangements made to suit one individual do nothing to increase disabled people's access to the organisation in general, either as employees or as customers.

If, however, the 'problem' of disability was turned on its head and impairment was not seen to be the cause of the 'need', a different and more positive picture of disabled people may emerge. In addition, if the arguments for organisational change were put differently - if people were to use different ideas and ways of thinking to engineer change - the chances of change become part of the organisational culture would increase.

Thus, we can either say that people with impairments cannot carry out a particular task because of their impairment **or** we can say that because those organisational procedures that facilitate such a task have developed in the absence of people with impairments they cannot accommodate their requirements.

This approach to disability has the advantage of encouraging people in organisations to identify those forms of social organisation that disable people with impairments.

Thus, when such an approach is taken the collective informed experience of people facing disabling barriers can become the arbiter of social justice and not the subjective experiences of individuals.

There will of course come a point where the organisational change will be calculated as being too expensive or would take too long to accomplish. Nevertheless, the fact that the argument has pointed towards a solution, however distant, means that the organisation will be unable to articulate its failure in terms of fundamental flaws in people with impairments - it must articulate failure in organisational terms.

## The Disability Discrimination Act

In order to reduce the multiple deprivations and exclusion that disabled people experience - we need to replace the individual definition of disability promoted by the Disability Discrimination Act (DDA) and build a social definition of disability into the fabric of organisations. For this to happen it will be necessary, in the first instance, to promote a social definition of disability within the individualistic legislative framework established by the DDA. Ultimately, however, the law will need to be changed to properly reflect a social approach to disability.

### An individual definition of disability

Section 1(2) of the DDA defines a 'disabled person' for the purposes of the Act as a person who has a 'disability'. A person has a 'disability' if:

'he or she has a physical or mental impairment which has a substantial and long-term adverse effect on her or his ability to carry out normal day-to-day activities.' (s1 (1)).

In short, this definition says that disability is activity restricted by impairment.

'Normal' day-to-day activities identified in the Government's *'Guidance on matters to be taken into account in determining questions relating to the definition of disability'* are a jumble of physical, sensory, and mental functions, and social activities. For example, in seeking to define 'mobility' the guidance booklet states that account should be taken of the extent to which, **because of** either a physical or a mental condition, a person is inhibited...

- 'in getting around unaided, or
- using normal means of transport,
- in leaving home with or without assistance,
- in walking a short distance,
- climbing stairs,
- travelling in a car or completing a journey on public transport,
- sitting, standing, bending, or reaching,
- getting around in an unfamiliar place.' (C14)

Clearly, physical functions such as sitting, or standing, or bending, or reaching may be inhibited by impairment. But the inability to use public transport is not the result of a 'physical or a mental condition'. It is well documented that many disabled people cannot use public transport because it is not designed to meet their needs - either physically or organisationally.

### Paradox

In the context of the Disability Discrimination Act, the purpose of the definition of disability is to decide who will have 'rights' and who will not. The logic goes something like this: the more severe the affect of your impairment on your ability to carry out 'normal day-to-day activities' the more you deserve to have legal protection

against discrimination. A big problem with this approach to disability is that it creates a paradox. **That is, in order to obtain the right to participate in society an individual must show that they are incapable of participating in society.**

### What is normality?

The DDA also requires us to compare a disabled person's activities to 'normal' activities, but the word 'normal' can be used in two very different ways. Firstly, 'normal' can be an **actual pattern**; that is, what is described as normal is that which is average, common or standard. For example, walking can be said to be normal because most people walk. Secondly, normal can also be used to denote a **prescribed pattern**; that is, it becomes a value judgement. For example, walking is normal because it is believed that people **should** walk to get around, that it is right and proper to walk.

The DDA does not make the distinction between value judgements and actual patterns. The danger with this is (given the widespread use of negative images and stereotypes of disabled people) that when the Act's definition is used in the courts and industrial tribunals the two different meanings of normality will become muddled. This may result in the systematic attachment of negative value judgements to disabled people: disabled people's bodies and activities will be portrayed as not only different from the average but also unnatural and inadequate. Furthermore, the fixing of normality in law effectively limits the possibility of disabled people challenging the established norms of society and the conditions that generated them.

Overall, an individual definition of disability encourages organisations to view disability as an individual problem and therefore to devise only ad hoc individual solutions to address the problem.

### **A Social Definition of Disability**

The NOG definition acknowledges that impairments create differences in mental, physical, and sensory functions. However, contrary to the individual model of disability given above, it presents disability as being the result of:

- social organisation (for example, work practices, buildings or products) that takes little or no account of people who have impairments and / or,
- social organisation that creates segregated and second-rate provision (for example, segregated welfare provision, transport, employment, education and leisure facilities).

Society is shown to **disable** people who have impairments because the way it has been set up prevents us from taking part in everyday life. Disability is located in the way society is organised; it is the restriction of activity caused by inadequate social organisation.

## Disabling Barriers

It follows that if disabled people are to be able to choose to join in mainstream society, the way society is organised must be changed. This change can be brought about by identifying and remodelling those forms of social organisation that exclude (disable) people who have impairments. Thus, the NOG definition identifies the following forms of social organisation as 'barriers':

- segregated social provision;
- inflexible organisational procedures and practices;
- inaccessible information;
- inaccessible buildings;
- inaccessible transport; and,
- negative cultural representations.

Overall, a social definition of disability encourages organisations to view disability as an organisational problem and therefore to devise a strategic approach aimed at identifying and removing disabling barriers in general.

## **Implementing a Social Definition**

### Discretionary Definition

A discretionary social definition of disability can be used by organisations if the definition includes all those people who would be covered by the existing statutory definition given in the Disability Discrimination Act. We would also suggest that local authorities ensure:

- that Councillors and officers are aware that a discretionary definition is open to review for any reason, at any time; and,
- disabled employees and service users covered by the discretionary definition may not be covered by the statutory definition.

### Parity with other organisational initiatives

A social approach to disability as represented by the NOG definition encourages organisations to take a strategic look at the problems faced by disabled people. Rather than carrying out ad hoc adjustments to suit individual disabled people, a local authority could plan for a coordinated barrier removal strategy. For example devising a strategy for providing accessible information and buildings across the organisation. Furthermore, a social approach to disability can be incorporated into urban regeneration and 'Best Value' initiatives.

A social definition of disability also encourages an organisation to integrate its strategy for removing disabling barriers with strategies for removing racism, heterosexism, and sexism.

## Precision

A definition is a legal or bureaucratic tool; therefore, a social definition of impairment and disability needs to be precise if it is to be put into practice. For example, if an employer makes a 'reasonable adjustment' for one employee but not for another, the grounds for selecting the employee (the definition) must be open to 'objective' corroboration in terms of employment law.

Furthermore, if a definition is imprecise it will be implemented in an inconsistent manner. If this happens in local government then a person may be able to take a case to the Local Government Ombudsman on the grounds that the Local Authority was failing to implement its own policies. It is worth noting that in such instances a person would be able to take a case even if she or he did not meet the DDA's definition of disability.

## Cost implications

Adopting a social definition of disability will not in itself automatically increase costs: decisions about the removal of barriers can still be subject to the DDA's 'reasonableness' criteria. However, when using a social definition such decisions can be made based on an accurate representation of disabling barriers and not some value-laden judgment of an individual.

A further advantage to applying a social definition is that the removal of disabling barriers can be shown to be a productive process - it can create employment. Barrier removal could provide useful work for disabled people - as peer support workers, access surveyors etc. - and also provide work for disabled and non-disabled people as support workers and Personal Assistants etc. It could also be a major part of Urban Regeneration Programmes and so on. Such programmes may need some investment but would go on to help revitalise local economies.

## A definition should not be immovable

There are a number of social definitions of disability in use at this time, for example, those developed by the Union of Physically Impaired Against Segregation (UPIAS); Disabled Peoples International (DPI) and the British Council of Organisations of Disabled People (BCODP). All of them share the same basic premise but are used for different purposes, from research to political campaigning. However, we believe that the NOG definition is more suited for day-to-day implementation in an organisational context.

Although definitions are based on models and theories of disability, they do not serve the same explanatory purpose. A definition specifies the properties or characteristics of disability and disabled people; it is a bureaucratic tool; an aid to understanding.

One problem with adopting any definition of disability is that it can risk closing off or limiting the further development of an understanding of disability. Therefore, if any definition of disability is to be enshrined in law or organisational policy there needs to be a mechanism for review. Such reviews will need to ensure that the definition

continues to correspond with disabled people's own perceptions of their relationship to the social environment.

### **Contributions, ownership and further information**

This paper and the definitions do not belong to anyone; they are not subject to copyright. The content has been taken from the work of countless disabled people (officers, academics and organisations) including many members of the Northern Officer Group. However, the responsibility for all errors, omissions, and mistakes lies with the editor, Alden Chadwick.

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# Defining Impairment and Disability

## Explanation of Terms

### 1. Impairment

#### 1.1 “... injury...”

Disturbances of a bodily system caused by social factors. Such factors can include accidents, poverty, or pollution etc.

#### 1.2 “... illness...”

Disturbances of a bodily system caused by infection or disease or age.

#### 1.3 “... congenital condition...”

A state of being that has existed from birth; for example, restricted growth.

#### 1.4 “... causes or is likely to cause...”

There must be an objective link or causal connection between an injury, illness, or congenital condition and a physical appearance or function within the individual. Such a link will be taken to exist if it is more probable than not that the injury, illness, or congenital condition will have an effect on appearance or function in the future. For example, in its early stages, multiple sclerosis may have little or no effect on functions within the individual, but it is likely that it will in the future.

#### 1.5 “long term”

Long term means that the physical appearance or limitation of function within the individual:

- has lasted more than twelve months; or,
- the total period which it is to last, from the time of the first onset, to be at least twelve months; or
- is likely to last the rest of the life of the person.

1.6 “... physiological and psychological function...”

Taken from ICDH- 2: International Classification of Impairments, Activities, and Participation. Beta - 1 Draft for Field Trials.

- Mental Functions. (Including intellectual development and functioning, and emotional states)
- Voice, Speech, and hearing functions.
- Seeing functions.
- Other sensory functions. (Including the experience of pain when at rest, during pressure, during stretching, linked to physiological functions and linked to activities such as walking).
- Cardiovascular and respiratory functions.
- Digestive, nutritional, and metabolic functions.
- Immunological and endocrinological functions.
- Genito-urinary functions.
- Neuromusculoskeletal and movement related functions.
- Functions of the skin and related structures (includes growth of hair, skin pigmentation and sensation).

The above list of functions does not include the ability to participate in social activities or negotiate the built environment.

1.7 “ ... difference...”

Difference represents a deviation from some ‘norm’ in the biomedical status of the body and its functions; primarily those qualified to judge will decide difference in physical and mental functioning according to generally accepted standards. The deviation from the norm may be slight or severe and may fluctuate over time.

Difference in itself is not the issue. In this context, difference only becomes significant when forms of social organisation are not accommodating it. For example, a person with ‘juvenile’ diabetes has a measurable difference in the structures related to the digestive system and metabolism; their pancreas does not function to produce insulin. Juvenile diabetes can be controlled by medication (i.e. insulin). However, a person with diabetes is likely to experience a form of disability if their employer refuses to provide sufficient flexibility in the working day for them to manage their medication and diet.

Similarly, someone who is HIV positive, but who does not have AIDS will have a slight measurable difference to their immunological system. However, they will experience severe disability if they are prevented from participating in employment or other social activities because of social reactions to their HIV status.

Thus, doctors, psychologists, psychiatrists etc. can be called upon to measure difference; but others, crucially people with the impairments concerned, will be the ultimate judges of disability.

## 2.0 Disability

2.1 Barriers can be grouped under the following headings:

- negative cultural representations;
- inflexible organisational policies, procedures and practices;
- segregated social provision;
- inaccessible information formats;
- inaccessible built environment and product design.

### 2.1.1 Negative cultural representations

Images and assumptions that medicalise, patronise, criminalize, and dehumanise people with impairments.

### 2.1.2 Inflexible organisational policies, procedures, and practices.

“Inflexible...”

In this context inflexible means that which does not accommodate the functional requirements of people with impairments.

“... organisation...”

An organisation is a social unit that assembles collective action into sustainable forms.

The category will include all private, public, and voluntary organisations. For example, educational establishments; transport providers; leisure providers; employers etc.

“... policies...”

Policy is that which an organisation intends to do. It is often a written statement of an organisation's goals.

“... procedures ...”

Procedures are formal written instructions and / or guidance used to implement policies. Procedures can be very general, almost abstract, or very specific. For example, a general procedure would include such things as the national curriculum. Specific procedures would include such things as Recruitment and Selection Codes of Practice.

“... practices ...”

How the procedures are carried out: the application of procedures on a day-to-day basis. Practices may include, written or verbal instructions; or, established ways of working; or, tradition; or, habit.

### 2.1.3 Segregated social provision.

Special Education; that is, where children with impairments are separated off from their peers on the grounds of their impairment.

Segregated transport; for example Dial-a-Ride schemes. Social Services Day Centres and residential homes that fail to challenge and remove disabling barriers in wider society.

### 2.1.4 Inaccessible information formats.

Format is the way in which information is presented. A format will be inaccessible if it is not appropriate to the functional requirements of people with impairments. Formats include: the spoken word; sign language; print; Braille; tape; videotape, and electronic media, such as ‘e-mail’.

### 2.1.5 Inaccessible built environments and product design.

The built environment includes any building or construction; or approach to a building or construction; or, any open space that has been constructed (for example, landscaped areas). A built environment includes any fixtures, fittings, or furniture within buildings.

Product design is meant to be a broad category which includes any manufactured product; from buses to computers to kitchen equipment. It is inaccessible if it is not designed or laid out to be appropriate to the functional requirements of people with impairments.

## 2.2 Barriers relating to past Impairment

Where a person has had an impairment in the past and recovered, barriers can still apply. For example, a person who has had mental health problems and recovered can still be disabled if an organisation refuses to employ her or him simply because she or he has spent some time in the mental health system.

2.6 Disabling barriers experienced in the past.

Disabling barriers experienced in the past can continue to have an adverse effect. For example, those disabled people who attended segregated schools may have gained lower academic qualifications than their non-disabled peers, simply because their 'special' school failed to provide a proper 'mainstream' curriculum.

2.7 People discriminated against by attitudes applied to them in error.

If an employer or service provider thinks (wrongly) that an individual has an impairment they will still have to consider making an 'adjustment' to avoid potentially discriminating behaviour. The process of considering such an adjustment would inevitably uncover the nature of the individual's condition. If the employer or service provider still wishes to discriminate against the individual they would have to take account of other legislation (for example, the Sex Discrimination Act; statutory protection against unfair dismissal etc. etc.).