

# **LEEDS UNIVERSITY**

## **'WHY IS ACCESS LEGISLATION FAILING IN ITS INTENTIONS?'**

Notes to accompany presentation given by John Devonport MA March 11<sup>th</sup> 2005

### **INTRODUCTION**

"The existence of impairment and disability are as old as the human body and early societies; they are a human constant"

This statement by Gary Albrecht from his book 'The Disability Business' is undeniably correct. Impairment has been an integral part of human experience and society since the human species evolved. Despite this disabled people have in the main been the subject of discrimination throughout history to the present day. The extent and form of discrimination has changed over the years usually in response to specific changes in circumstances, which has in turn affected society and society's perceptions and attitudes. However, one area that has remained unchanged throughout history is the inaccessibility of the built environment, which represents the most obvious example of indirect discrimination and affects all disabled people to some extent.

It is not just the barriers to access experienced in public buildings that limit the lives of disabled people but also the space between buildings, the design of dwellings and inaccessible public transport. The design solutions exist and there is no physical or technical reason why they cannot be implemented in new buildings. Unfortunately even though legislation intended to overcome some of these problems in the form of the Chronically Sick and Disabled Persons Act 1970 has been in existence for thirty years there has been only limited success in removing some of the barriers in the built environment.

### **ACCESS LEGISLATION**

#### **The Chronically Sick and Disabled Persons Act 1970**

The first recognition in legislation of the need to provide access in the built environment was in the CSDP ACT 1970, Section 4 of which requires

anyone in charge of public buildings to make adequate provision for disabled people with regard to access, toilets and parking facilities.

"Any person undertaking the provision of any building or premises to which the public are admitted, whether on payment or otherwise, shall, in the means of access to and within the building or premises and in the parking facilities and sanitary conveniences to be available, make provision in so far as it is in the circumstances both practical and reasonable, for the needs of the members of the public visiting the building or premises who are disabled."

Section 6 extends this requirement to places of accommodation, refreshment and entertainment.

Section 8 relates to access and facilities at universities and schools.

The amendment Act of 1976 extended these requirements to places of employment.

Most architects and designers took their guidance from the provisions specified in B.S. 5810: 1979 'Code of Practice for Access for the Disabled to Buildings.' This was a very simple document containing only eight pages of relevant information. Much of this information was taken from Selwyn Goldsmith's 'Designing For The Disabled.'

### **The Disabled Persons Act 1981**

Further progress was made when 1981 was designated the 'International Year of Disabled People.' This provided the impetus for a review of the 1970 Act and 1976 amendment. In 1981 The Disabled Persons Act, a private members bill was used in an attempt to achieve greater effectiveness for the provisions within the 1970 Act. The Bill placed a duty on local authorities, through the development control process to draw the attention of applicants to the provisions of the Chronically Sick and Disabled Persons Act with regard to access. 'The Architects Journal' of 12th June 1985 however said, "Generally speaking ..... the response on the part of applicants nationally has been patchy and disappointing."

Section 6 of the Disabled Persons Act 1981 sought amendments to bring in a body which would decide what access arrangements should be made. In 1984 The Access Committee for England (ACE) was set up by the Department of Health and Social Services. This group pushed for access and

facilities for disabled people to be incorporated into the Building Regulations because they were considered: " The best way of ensuring access for disabled people. " and because of " the fact that Regulations could now be made for the welfare and convenience of people rather than just for matters of health and safety. "

Following the findings of two such Government sponsored reports on access the Government decided to use the Building Regulations to ensure that part of the access provision outlined in the CSDP Act was enforced.

### **The Building Regulations Part T**

Partly as a result of pressures from ACE, Patrick Jenkin (the then Secretary of State for the Environment) announced in March 1985 that he was laying before Parliament a statutory order introducing a fourth amendment to the Building Regulations. This resulted in Part T 'Access and Facilities for Disabled People' which reached the statute books on August 1st 1985.

Part T was applied to all floors of new office and shop buildings to which the public may be admitted. In addition it required a number of wheelchair spaces in halls, auditoria and sports stadiums and access to a wheelchair accessible toilet. The relevant parts of BS 5810 and Design Note 18, 1884 'Access for Disabled People to Educational Buildings' became the deemed to satisfy documents to meet the requirements of the Regulations. Part T exempted access to floors other than the ground floor by reference to size. There was no incentive to consider access below this minimum cut-off point. Consequently, this size became the norm.

### **The Building Regulations 1985, Schedule 2**

In November 1985 Building Regulations in a new functional style were introduced. These were supported by Approved Documents, which gave practical guidance about ways in which the requirements of these regulations could be met. Because the access regulations had only just been introduced they could not be immediately cast into the regulations in this new functional style. Instead they were incorporated unchanged as Schedule 2.

In September 1986 the Government began consultations with the intention of recasting Schedule 2 in a more flexible style the same as the rest of the Building Regulations. Schedule 2 was amended to the new functional style, in line with the rest of the Building Regulations, and became Part M, which

came into force on 14th December 1987. This document explained the requirements and where they applied. It also gave advice on what access and facilities should be provided and how they could be designed. The document went on to define disabled people as meaning 'people with a physical impairment which limits their ability to walk and people who need to use a wheelchair for mobility.'

The Approved Document M of the Building Regulations 1985 'Access for Disabled People' contained:

M1. Interpretation

M2. Means of Access

M3. Sanitary conveniences

M4. Audience and spectator seating

### **Approved Document M of the Building Regulations 1991**

The Building Regulations were again re-cast in 1991 following consultation with ACE, Local Authorities and disabled peoples groups. This revision came into force on the 1st June 1992. A further revision, which extended the provisions to dwellings, came into force on 25th October 1999.

The requirement from the 1999 Regulations details what is meant by disabled person for the purposes of the Regulations. It is interesting to note that as with the CSDP Act the Regulations ask that 'Reasonable' provision be made. Since the 1992 edition the definition of 'disabled person' was widened to 'include those who have impaired hearing or sight.' It also details what provisions are to be provided and where the regulations apply which is as follows:

1. New buildings, including buildings substantially demolished leaving only external walls;
2. Extensions, provided the extension contains a ground storey; (Note: extensions to dwellings are excluded from Part M) and
3. The level of provision after alteration or extension to a building should not be any worse.

Sections 1-10 of the Approved Document are intended to provide guidance for some of the more common building situations. In other circumstances alternative ways of demonstrating compliance with the requirements may be appropriate. All the sections have comprehensive diagrams and details of the provisions that have to be met.

## **The Building Regulations 2000 Approved Document M (Access to and use of buildings) 2004 Edition**

This further revision came into force on May 1<sup>st</sup> 2004 and further extended the provisions of the regulations. It is interesting to note that the word 'disabled' does not appear in the title of the document. This recognises that accessible design has advantages for all sections of society. The intention of the requirements is that reasonable provision must be made so that people, regardless of disability, age or gender, can access and use a building.

### **The Requirements**

#### **M1 – Access and Use**

Reasonable provision shall be made for people to

- (a) gain access to; and
- (b) use

the building and its facilities.

*The requirements of this Part do not apply to -*

- (a) an extension of or material alteration of a dwelling; or*
- (b) any part of a building which is used solely to enable the building or any service or fitting in the building to be inspected, repaired or maintained.*

#### **M2 – Access to Extensions to Buildings other than Dwellings**

Suitable independent access shall be provided to the extension where reasonably practicable.

*Requirement M2 does not apply where -*

*suitable access to the extension is provided through the building that is extended.*

### *Definition*

*'independent access' to an extension or part of a building means access to that part which does not pass through the rest of the building.*

### **M3 – Sanitary Conveniences in Extensions to Buildings other than Dwellings**

If sanitary conveniences are provided in any building that is to be extended, reasonable provision shall be made within the extension for sanitary conveniences.

*Requirement M3 does not apply where - there is reasonable provision for sanitary conveniences elsewhere in the building, such that people occupied in, or otherwise having occasion to enter the extension, can gain access to and use those sanitary conveniences.*

### **M4 – Sanitary Conveniences in Dwellings**

Reasonable provision shall be made in the entrance storey for sanitary conveniences, or where the entrance storey contains no habitable rooms, reasonable provision for sanitary conveniences shall be made in either the entrance storey or principle storey.

In this paragraph 'entrance storey' means the storey which contains the principal entrance and 'principal storey' means the storey nearest to the entrance story which contains a habitable room, or if there are two such storeys equally near, either such storey.

### **What requirements apply**

Reasonable provision must be made -

- a. so that people, regardless of disability, age or gender, can reach the principal entrance to the building and other entrances described in the approved document, from the boundary of the site, and from other buildings on the same site (such as a university campus a school or a hospital);
- b. so that elements of the building do not constitute a hazard to users, especially people with impaired sight, but rather assist in way-finding;

- c. so that people, regardless disability, age or gender, can have access into, and within, any storey of the building and to the buildings facilities, subject to the usual gender-related conventions regarding sanitary accommodation.
- d. suitable accommodation for people in wheelchairs, or people with other disabilities, in audience or spectator seating;
- e. for aids to communication for people with an impairment of hearing or sight in auditoria, meeting rooms, reception areas, ticket offices and at information points; and
- f. for sanitary accommodation for the users of the building.

### **Where the requirements apply**

1. When a non-domestic building or a dwelling is newly erected
2. Extensions and material alterations to dwellings

Part M does not apply in these cases, but any changes made must not make an existing situation worse.

3. Extensions to non-domestic buildings

Part M applies in full to all extensions of non-domestic buildings, and requires independent access to the extension if access through the existing building is unsatisfactory.

4. Material alterations to non-domestic buildings Part M applies to all alterations to non-domestic buildings where appropriate.

5. Material Changes of use

Requires compliance with Part M for any material change of use where the building will be used as:

- A hotel or boarding house
- An institution
- A public building
- A shop

When only part of a building changes, then M1 applies to that part.

Sections 1-10 of the Approved Document are intended to provide guidance for some of the more common building situations. In other circumstances alternative ways of demonstrating compliance with the requirements may be appropriate. All the sections have comprehensive diagrams and details of the provisions that have to be met. Further design advice is detailed in BS 8300 on which Part M draws much of its requirements.

## **Planning Legislation**

Planning Policy Guidance 1 (PPG1) details current government thinking on planning matters and contains advice on securing access for disabled people as part of the planning process. It advises that "when a new building is proposed, or when planning permission is required for the alteration or change of use of an existing building, the developer and local planning authority should consider the needs of people with disabilities at an early stage in the design process. They should be flexible and imaginative in seeking solutions, taking account of the particular circumstances of each case. Resolving problems by negotiation will always be preferable, but where appropriate the planning authority may impose conditions requiring access provision for people with disabilities."

It has been standard practice for many years to impose conditions on planning applications to secure improvements to access and facilities for disabled people in development proposals. This is providing such conditions meet various criteria one of which is that the aim of the condition could not be controlled by other legislation. Local Plan policies add weight to and reinforce planning legislation and conditions.

Given the above, the design features controllable under planning legislation, without the support of specific local plan policies, are limited to aspects that cannot be controlled under other legislation such as the Building Regulations. In addition as planning requirements are generally not concerned with internal layouts the scope of planning control over access and facilities for disabled people is limited and is generally confined to parking, access within a site and access into the building.

In the majority of new build situations planning conditions and negotiations will be limited to ensuring adequate parking provision is made as the Building Regulations cover the rest. Where planning legislation does have

an advantage over the Building Regulations is in alterations to existing buildings such as new shop fronts, which often do not require Building Regulation Approval.

There are other areas of legislation and guidance such as BS 5588 Part 8 'Means of Escape for Disabled People' whilst others are mainly concerned with recommending standard design solutions in the built environment such as BS 8300 'The design of buildings and their approaches to meet the needs of disabled people' (which superseded BS 5810), Chapter 8 of the Roads and Street Works Act and numerous guide lines issued by the Department of Transport concerning the use of tactile paving, the design of transport infrastructure etc.

## **NOTTINGHAM CITY COUNCIL - ACCESS INITIATIVES**

Some local authorities recognise that the above legislation is limited and that further action is required to achieve a built environment that is accessible to everyone. One such local authority is Nottingham City Council, which instigates initiatives to supplement national legislation some of which are detailed below. From April 1st 1998 Nottingham City Council became a Unitary Authority taking on responsibility for Social Services, Education, Highways etc.

### **Access Officers/Other Specialist Officers**

Nottingham was one of the first cities in the country to appoint an Access Officer. Access Officers represent the interests of disabled people within local authorities; often they are supported by local access groups. Their possible appointment within local authorities was first discussed in chapter 6 of the Snowdon Report 'Integrating the Disabled' in 1976. This report recommended that building control officers were best placed to ensure access conditions were met and that the best means of doing this was through the Building Regulations.

The Silver Jubilee Committee Report on improving access 'Can disabled People Go Where You Can?' recommended, "that every local authority at district level should designate one of their officers, preferably based in the planning department, as an Access Officer." When the Access Committee for England (ACE) surveyed 222 local authorities in 1985 they found that only 37 (17%) had a designated Access Officer, 178 (80%) had not appointed an Access Officer and 3% did not reply.

Research indicates that in local authorities where such officers are employed access legislation is being made to work close to its full potential, at least with regard to vetting and subsequent approval of submitted drawings prior to works commencing on site.

The role of Access Officers has developed beyond that which was initially envisaged. In Nottingham for example the Access Officer has wide ranging responsibilities throughout the council and is responsible for many of the initiatives detailed below.

In addition there are a number of other specialist officers appointed within other departments of Nottingham City Council with responsibility for disability in areas other than the built environment. These are a Sports Development Officer for Disabilities, a Policy Officer for Disabilities and a Personnel Officer for Disabilities.

### **Grant Schemes**

The City Council operates a grant scheme to encourage service providers to make modifications to their buildings to improve access and facilities for disabled people. The grant scheme was established in 1983 and by the financial year 1992/93 had an annual financial allocation of £143,000 (This figure included £22,000 available in an Urban Programme project). However, budgetary cuts throughout the council have resulted in the financial allocation to this budget being reduced to only £25,000 a year.

### **Shopmobility**

Nottingham Shopmobility is now in its thirteenth year of operation. It is a service that provides the free use of powered and self-propelled wheelchairs and scooters for use about the city centre together with free car parking and assistance. It operates from two bases and has had over 5,000 members register since the beginning of 1999. Although funded by the Council voluntary donations are accepted and sponsorship sort from retailers etc. The provision of the shopmobility service has resulted in significant benefits to the city centre economy.

## **Guide Service for Visually Impaired People**

A guide service for visually impaired people has been established with the aid of sponsorship from the Boots Company. The service operates two and a half days a week and provides the opportunity for people to be able to book a guide to escort them about the city centre for shopping, leisure or business purposes. The service is free of charge.

## **Castle and Park Mobility**

Trekka cars, a type of robust powered wheelchair, are provided at both the Castle group of museums and at two of the large parkland areas. These are provided free to disabled people wishing to access the grounds and museums.

## **Lord Mayors Award**

An annual award is given to various categories for urban design. One such category voted for by the Council's Disabilities Advisory Group is for the 'Best Adaptation of an Existing Building in Terms of Access for Disabled People'. The award serves to highlight to architects and developers the need to take such issues into account in urban design.

## **Disability Charter**

The purpose of the Disability Charter is to provide a framework for current and new disability initiatives, to offer guidance on legal issues and best practice to managers and to make a link with European Disability Policy. The Charter was launched in January 1997 following consultation with disabled people and organisations of disabled people in the community. The two main strategies of the Charter are to support the social model of disability and to encourage an inter agency approach to tackling disability issues.

## **Consultation**

Since 1983 consultation has taken place with disability groups by way of a working party where officers of the Council would present reports to elected members and representatives of disability groups of disabled people. Though not a committee itself recommendations from the meeting were ratified by the Personnel and Customer Care Committee for action by other committees

of the Council. Due to changes in committee structures that took place as part of unitary status this changed with the result that the working party became a sub-committee of the Council. Both members and representatives are required to be voted on to this sub-committee and interestingly the Disabilities Joint Sub Committee (DJSC) was the only committee of the council where the controlling Labour Group did not have a majority, which was in fact held by the disability representatives. Reports were either department lead or requested by DJSC members.

Further changes took place to the political structure of the council resulting in the DJSC being replaced by a Disabilities Advisory Group (DAG) with a Service Advocate who reports directly to the newly formed Executive Board.

The terms of reference for DAG, detailed below, are identical to those of the Sub Committee that existed previously.

- i) To develop services and policies for disabled people and the co-ordination of community care;
- ii) To monitor, review and co-ordinate equal opportunities for disabled people in council employment and in the provision of council services.

In addition to the regular programmed meeting of the DAG separate consultation meetings are held with disabled representatives at which detailed issues are discussed such as urban design proposals, transport initiatives, employment policies etc.

The forthcoming Disability Bill may require changes to consultation procedures and a review is currently taking place.

### **Nottinghamshire Access Officers Group**

Established by the City Council to ensure a consistent approach to access issues and to share information between officers, the group comprises of Access Officers and those involved in related work. The group meets on a regular basis and has links with the National Association of Access Officers.

## **Design Guide**

As Part M of the Building Regulations provides only minimum design advice the local authorities in Nottinghamshire, under the co-coordinating role of the City Council, have produced an Access Design Guide that provides more detailed and extensive design guidance for architects and developers. The guide also helps to ensure that local authority officers in the county working on access design issues work to an agreed standard.

In addition to the above, input is made in to other design and information guides produced by council departments such as the 'Reception Improvement Guide', the 'Pavement Cafe Design Guide' 'Scaffolding Contractors Guide' 'The Highways Obstruction Guide' etc.

## **Best Practice Accommodation Guide**

Similar to the design guide but tailored more to the office manager this guide produced by the City gives advice on the internal planning of the office environment, the ways in which services can be changed to meet the needs of disabled customers and staff, signage, colour contrast etc. It has been used to highlight to service managers the need for such considerations to be taken into account in the recent series of office moves that have taken place as a result of the city taking on unitary status responsibilities.

## **Access Guides**

Access guides detailing information on the accessibility of premises located within the city centre, accommodation throughout the city and tourist attractions throughout the county have been produced. In addition separate guides for museums and sports facilities have been published.

## **Urban Design**

As with many major cities Nottingham has pedestrianised large areas of its city centre. This has presented both opportunities and problems with regard to improving the design of these spaces to meet the needs of disabled people whilst ensuring the overall objective of city centre regeneration is met. During the design stages of such schemes consultation meetings take place on a regular basis with disability groups.

## **Transport Initiatives**

The Council has introduced a number of transport related initiatives including wheelchair accessible hackney carriages which number over 200, experiments with a wheelchair accessible 'park and ride' scheme, widely distributed and numerous blue badge parking bays about the city centre and in council and private car parks. Transport infrastructure is also being designed to provide accessible information and better seating within bus shelters and training is being introduced for bus and taxi drivers on disability related issues. Further projects include low floor wheelchair accessible buses and infrastructure, concessionary fare scheme, community transport, a wheelchair accessible main line rail service linked to the accessible 'tram' system, Nottingham Express Transit, which commenced operation on 9<sup>th</sup> March 2004.

## **Licensing**

When any changes are proposed to licensed premises or when new licensed premises are to be built the proposals must go before the Licensing Justices for approval who can condition or sometimes suggest major changes to the design. Although there is no requirement for the Licensing Justices to consult with the Local Authority, Building Control in Nottinghamshire have established a procedural document for consultation on liquor licenses with the five licensing areas. Part of this procedure includes advice, via the Access Officer, on access and facilities for disabled people, which in many cases is made a requirement of the court before a licence is approved. Numerous past instances have demonstrated the value of this procedure. For example, a typical scenario would be that an architect or developer would raise numerous reasons why a wheelchair accessible toilet could not be included in a refurbishment proposal (a facility that cannot be required under the Building Regulations in this situation). These would range from "physically impossible" to "it would take too much floor space and therefore make the whole scheme unviable". Usually, despite protracted negotiations the architect would refuse to provide the facility. However, later in the process when the same request is made by the Licensing Justices the same architect or developer will be more than willing to comply. Evidence would suggest that this is a financial consideration, put simply 'no licence, no licensed premises'. However, prejudiced attitudes towards disabled people held by business interests cannot be ruled out.

Although this procedure has worked well in the past it's effectiveness is now under threat, as with other aspects of Part M of the Building Regulations, from Approved Inspectors.

### **Seminars and Training Events**

Seminars and training events are regularly held for developers, architects and other organisations on wide ranging subjects concerning access for disabled people in the built environment.

### **Access Audits for the City Council**

To obtain the Citizens Charter information and to assess the level of work required to our premises to comply with the DDA detailed surveys have been undertaken of the public areas of approximately 200 buildings. The works identified as requiring alteration are currently being prioritized.

### **Why is access legislation failing?**

The inaccessibility of the built environment is well documented. The effect it has on the lives of disabled people with regard to personal development, economic opportunities, social and political implications etc. have all received considerable attention and comment. The provisions of the Building Regulations and Planning Legislation contain the main legislative powers for ensuring these barriers are removed and that access and facilities for disabled people are provided in the built environment. The requirements of the legislation are limited and do not provide an adequate basis from which physical access issues could be tackled. However, even these limited legislative requirements are failing to be implemented effectively. New buildings continue to be built that do not meet the minimum requirements of these regulations and adaptations to existing buildings fail to make provision for access.

But why is this happening, why is the legislation failing in its efforts to create an accessible environment. I consider that whilst the legislation is limited with regard to the design standards required the main failure lies with the prejudiced decisions and actions taken by the professionals and others responsible for its implementation. A prejudice that stems from preconceived ideas, attitudes and priorities, which result from a lack of understanding and ignorance of disability. Attitudes and perceptions, which

can be accredited to many factors and cultural influences including the following:

**1. Medical Model** - the problem is with the individual not the environment. Disabled people were institutionalised or confined to their own homes, they were segregated out of circulation. As they were segregated and had their own facilities there was no need to design an environment for anyone but able-bodied people.

**2. Architectural Design - Historical Context** - one thing that commentators on the history of disability fail to mention is the effect that classical architecture has had on creating an inaccessible environment. This style from Greek and Roman culture has played a significant role in the segregation and oppression of disabled people. Whether in their search for perfection it was a conscious decision that their built environment excluded all but able-bodied people can only be guessed at. However, this much copied style of architecture has formed the basis of building design in the western world which in turn continues the process of building environments which are inaccessible to disabled people.

**3. Training** - little regard is paid in the training programmes of the professionals that shape the built environment such as architects, planners, engineers etc. to designing for everyone and not just for able bodied people. In fact to be more specific anyone other than average height/weight, right handed people aged 18-45!

**4. Prevalence of disabled people** - advances in the medical profession have resulted in people surviving accidents and injuries that in the past would have proved fatal. Advances in medication and treatment have also resulted in people living much longer than in the past but often with disabilities brought on by advancing years. For example the life expectancy worldwide has increased from 46.5 years in the 1950's to 65.6 years in the 1990's and is expected to exceed 72 years by 2020.

**5. Developers/Clients** - the people commissioning new buildings etc. tend to be only interested in the cost of their project and see facilities for disabled people as an unnecessary and an unacceptable additional cost and therefore to be dismissed if at all possible.

**6. Attitudes** - cultural representation, the symbolic aspects of human society, particularly as presented by the media to a great extent, constructs

the attitudes of society. This is particularly true where the representation in the media is the only experience an individual has of an issue or group of people etc. This is particularly relevant to disability because of the lack of integration into mainstream society.

Because of these and many other factors and influences building design is based around a user that is in the minority and ignores the advantages of an environment designed for everyone. It is therefore not surprising we have the situation we are faced with today - a built environment that presents problems if not total barriers to the majority of the population.

I have conducted research that has confirmed my thoughts on this. The research took the form of an analysis of questionnaire returns and interviews conducted on the professional officers responsible for the implementation of access legislation, namely Building Control and Planning Officers. This research indicated that professionals charged with the responsibility of implementing access legislation have received very little training on disability issues, that their understanding is influenced in the main by the media and that overall access for disabled people is given a far lower priority than other areas of the regulations or urban design.

I consider that a strong link can be shown between an individual's perceptions, attitudes and priorities towards disability and the failure of access legislation to achieve its intentions and that this can also be related to the actual formulation of the legislation. My research has also revealed that the training received by the professionals responsible for the implementation of the relevant legislation is at best limited and inadequate and at worse none existent.

### **How can the situation be improved?**

I consider there are a number of actions that could be taken to improve the situation:

1. Firstly, and perhaps the easiest to achieve, would be to increase and improve the training that the relevant professionals receive. This should not be limited to only the qualification courses but also be extended to ongoing work related training.
2. Improvements to the design requirements of the Building Regulations should be investigated fully in full consultation with disabled people.

3. Research should be undertaken on the initiatives implemented by local authorities such as Nottingham to assess their effectiveness as a means of supplementing national legislation.
4. The provisions of the legislation and regulations need to be clarified. In terms of the Building Regulations this would involve the removal of the word "reasonable" from the requirements of the Approved Document thus taking away the opportunity for individual interpretation and with regard to Planning Legislation much more precise guidelines would need to be formulated.
5. Changes to the priority that the professionals charged with implementing the legislation, the Building Control and Planning Officers, give to access for disabled people. Changes in the legislation will not achieve this; the existing legislation already makes no distinction in terms of priority between the various issues and regulations that should be taken into account when a development proposal is being considered. This is particularly the case with the Building Regulations. However, the research undertaken indicates that disability issues are given a low priority.

### **Are things getting better since the DDA deadline of 2004?**

DDA deadline of 2004 has focused the minds of both service providers and those involved in the design of the built environment. Unfortunately it is the fear of financial penalties rather than a will to create a fully accessible environment that is driving this.

I consider that with the DDA, as with the other legislation we have looked at, we will again find that access to the built environment will be determined by attitude. This time it will not be the attitude of architects, designers, planners etc. but the attitude of the courts, for it is the courts that will be determining what level of accessibility it will be 'reasonable' to provide.

### **Conclusion**

I would suggest that to achieve a shift in priority would require a fundamental change in the perceptions and attitudes. No doubt an increased awareness achieved through improved training will help in this regard. However, the main source of information and influence will remain that of cultural representation. My initial thoughts on this were to propose that only

through the integration of disabled people into all aspects of society would it be possible to get away from a reliance on this influence. Considering this further I came to the conclusion that whilst this is undoubtedly the answer, achieving it presents something of a major problem, for we find ourselves in a 'chicken and egg' situation namely a major component to achieving integration is an accessible environment. Those responsible for ensuring an accessible environment give it low priority and that to change this priority requires an accessible environment. When one then considers that the average life of a building is in the region of ninety years it can be seen that if left to current trends the situation with regard to access in the built environment for disabled people could be with us for many years to come. I am therefore led to the conclusion that the situation calls for more direct action.

As it is quite clear that the issue is given a low priority by professional officers and others that shape the built environment I consider that power should be given to individuals that would give the issue a high priority, namely disabled people themselves. I am not suggesting that the responsibility for considering development proposals with regard to access should be transferred to disabled people but rather that disabled people should be given the opportunity and legislative means to challenge decisions regarding compliance with the legislation and regulations. If such a challenge were upheld the building owner would be made to undertake remedial works. This action would certainly raise the priority with local authorities and Approved Inspectors as financial claims for such works would be against them. This power is in effect contained in the DDA and only time will tell how effectively this will be implemented.

Interestingly similar legislative powers have been in existence since 1984. Successful claims for damages have been taken in the past against local authorities by developers and owners where it has been proven that in exercising its powers it has approved plans and works that did not comply with the prescribed regulations. Under Section 36.6 of the Building Act 1984 anyone has the power to "apply for an injunction for the removal or alteration of any work on the grounds that it contravenes any regulation or any provision of this Act". If this power were exercised with regard to Part M of the Building Regulations it would emphasise to local authorities and Approved Inspectors their responsibilities and raise the profile and priority of access for disabled people.

I have been unable to find a legal case where this has been used with regard to Part M. However, this power does exist and is available to individuals or organisations to make use of it.

Until such time as an accessible environment is achieved I do not consider that the discrimination faced by disabled people can be fully eliminated for, as Richard Brewster Scope's Chief Executive, said "Civil rights don't mean that much if you can't get out of your front door."