

Designs on inclusivity

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Martin Burgess describes the different statutory building control processes on accessibility in the UK and Australia

A question I find frequently posed is what is the difference between accessible design, inclusive design and universal design? For access consultants this often sparks debate on the terminology. In general, these are:

- **accessible design:** as the words suggest, design related to elements for the benefit of disabled people
- **inclusive design:** defined by BSI as: "The design of mainstream products and/or services that are accessible to, and usable by, as many people as reasonably possible without the need for special adaptation or specialised design"
- **universal design:** often used in the USA and Australia, the principle is the same as 'inclusive design' used in the UK, to provide 'access for all'.

Having worked in both Australia and the UK I encountered differences between the application and use of statutory technical requirements as it relates to inclusive design in the two countries.

During my time in Australia, I found that the underlying principle of designing a built environment for 'all' was often lost in subtle differences in interpretation.

It is now well recognised that designing with a focus solely on statutory technical guidance relating to access for disabled people can often result in a building that may still present barriers for many users. This is because this statutory guidance does not generally encompass a holistic approach to inclusivity.

In the UK, the [Disability Discrimination Act \(DDA\) 1995](#), was seen by many at that time as a 'bolt on' to the Building Regulations, which have their origins in health and safety matters such as structural stability and fire safety measures.

As the concept of inclusive design has evolved within the Regulations, so too has terminology. For example, more recent guidance talks about access and use for 'all', recognising that features and elements that would be of benefit to disabled people are in fact beneficial for all users.

Differences

Australia's primary DDA legislation is actually very similar to that in the UK. However when drilling down to the detailed design guidance and building control/building code recommendations, there are some subtle but significant differences.

The remedy for any potential discrimination remains the same in both countries in that an aggrieved individual needs to take action under the DDA (now the [Equality Act](#) in the UK). This would be against the service provider (or employer) where discrimination is alleged.

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As suggested, the principle underlying this primary legislation is the same, with employers and service providers making 'reasonable adjustments' to accommodate disabled people. Supportive secondary legislation relating to the built environment correlates and supports the key objectives of the enabling Act and it is this technical guidance that does vary, with the Australian structure generally being more prescriptive in its application.

An example would be in the assessment of a project against building regulatory guidance. In the UK, the functional Building Regulations are supported by Approved Documents. Meeting the requirements of these documents effectively means that compliance will be achieved.

However, failure to follow the guidance does not necessarily mean that non-compliances will occur.

This same principle applies in Australia. However, where there is a non-compliance with the Building Code 'deemed to satisfy' provisions, there is then an obligation to obtain an expert judgment or alternative solution report from a suitably competent person to support the variance from the guidance. This is then assessed by the building control surveyor (certifier) responsible for the project.

Local planning policy in Australia also results in the vast majority of councils having detailed access-related development control requirements. These impose general provisions as well as suitable adaptable housing as part of medium to larger sized residential projects.

Building control surveyors (certifiers) have a responsibility to carry through key accessibility requirements agreed as part of the planning approval process into the detailed plan and construction assessments; thereby giving the development control process more teeth in this respect.

Indeed, the UK government is looking at this issue, with potential inclusion of additional guidance in the Building Regulations, which can be of assistance to planners and planning policy in the country.

Embedding principles

Unfortunately, in both Australia and the UK, I have seen numerous cases where accessibility is still considered as a bolt on, without due consideration of the broader benefits of considering holistic inclusive design principles embedded from the very start of the process.

Often a scheme will have progressed through feasibility and concept stages before issues of

inclusive design are considered. This can mean that fundamental decisions have already been made on issues such as access to a site, circulation, topography and use, notwithstanding the broader inter-relationship of a proposal against the local infrastructure. The scheme can then be compromised with significant difficulties in retrospective introduction of key design criteria.

One example is that overall floor to floor heights are set at an early stage, with basement car parking often not meeting the minimum requirements to accommodate vehicles with roof adaptations for ancillary equipment used by wheelchair users.

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Another factor is the integration of the adjoining environment/streetscape. The benefit of having an accessible public building is lost if potential users cannot reach it due to issues such as gradients or poor transport links. This may be as simple as incorporating a suitable drop off/pick up facility into the project at an early stage.

Ensuring inclusivity is considered and embedded from the outset will both mean a project will meet statutory requirements but more importantly will be inclusive for all users at virtually no additional costs. Such a useable building will attract greater credit from those in the community who access the facilities. This principle applies to any project, wherever in the world it is located.

On one project I worked on in Australia, the North West Rail Link in Sydney, the client proactively sought to identify key inclusive design criteria. I am hopeful that both the station designs and local transport interchanges will benefit from the consideration of inclusive design to open an accessible transport infrastructure to as many potential users as possible.

Equitable access

I end with two cases determined at the end of 2014 in the UK, both focusing on the core principle of ensuring equitable access to the service provided.

The first relates to the built environment where the Post Office was challenged over inaccessible fixed chip and pin machines. This case has been resolved, but required a [formal challenge](#) under the Equality Act, and clearly demonstrated the need for all service providers to make reasonable adjustments to the way they operate to accommodate disabled customers.

The second case presented more difficulties in applying the test of 'reasonableness' and whether a bus company "must have a policy or compel all other passengers to vacate the wheelchair space" as cited by Lord Justice Lewison in an appeal case heard in November 2014. This case is ongoing, but again identifies the need for adequate management policies and procedures to accommodate customers with a disability. At the time of writing the claimant is taking the case to a further appeal.

On the positive side, these 2 cases have at least raised the profile of access and use of services and facilities for disabled people.

The DDA and Equality Act set legislation for what should be common sense. However, the pressures of the world we live in, which is often driven by the bottom line, mean that legislation and statutory requirements need to impose a degree of regulation. However, I believe the key to success is both education on the benefits of incorporating inclusive design and applying this principle from the very outset of a proposed project.

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