



**Disability Discrimination Act 1995**  
An Expanded Interpretation Report

(Discrimination in Areas of Window & Door Refurbishment)  
by the Disability Discrimination Group

**Report Document Number:** UK-RED-065/MA04.



# **Disability Discrimination Act 1995**

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# Disability Discrimination Act 1995 (c. 50)

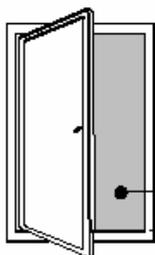
(Discrimination in Areas of Window & Door Refurbishment)

Report Document Number: UK-RED-065/MA04    www.ddg.org.uk    e-mail.equalityforall@ddg.org.uk

## 1. Scope.

(Professional Groups Affected)

This Document has been compiled by our head of research and investigations, Mr Marc Asante, for and on behalf of The Disability Discrimination Group (DDG) for the purpose of DDA Compliance in relation to the installation and refurbishment of 'Windows & Doors' into home dwellings whether they are privately owned, local housing authority owned & managed or housing association owned & managed. The scope of this report will focus upon areas that are specific to "The Group" as defined by the sub-groups as listed in *table ref 1* below:



Ref	Sub-groups →	- Description
G1	Local Authorities.	- (As Specifiers & Architects)
G1a	Local Authorities.	- (As Landlords & Building Managers)
G2	Housing Associations.	- (Specifiers & Architects)
G2a	Housing Associations.	- (As Landlords & Building Managers)
G3	Window & Door Firms.	- (as Fabricators – Installers )
G4	Hardware Firms.	- (Component Design & Manufacturers)
G5	Architects - (inc New Build).	- (Private & Commercial Sectors)
G6	Landlords.	- (Private & Commercial Sectors)

(Table Ref 1 – Groups to be affected – Post October 1<sup>st</sup> 2004)

Based on the understanding and interpretation of regulations as laid out within the Disability Discrimination Act 1995, along with data compiled over a number of months into the preparation and willingness of "The Group" as a whole to take specific actions necessary so as to ensure DDA Compliance thereof within the boundary of 'reasonable adjustments'.

So as to identify manufacturing and design standards relating to certain components of such products that are installed, or are likely to be installed into home dwellings and subsequently used by members of the public within the UK.

## 2. Preamble.

The 1<sup>st</sup> October 2004 was the deadline for businesses throughout the UK to have reached a compliance standard in line with Part III of the Disability Discrimination Act 1995. During the year leading up to this date the government had spent millions of £s promoting the Act and the deadline, so as to ensure that firms and organizations were not left out in the cold exposed to potentially crippling litigation as a result of non-compliance. Nonetheless the DDG has found that many of the firms and organizations within the eight sub-groups within "The Group" as a whole have limited knowledge of their duties and obligations under the Act or the legal impact of continued use of discriminatory practises, policies, procedures and components. This impact is set to increase now we are in the post '1<sup>st</sup> October 2004 impact zone' as more of the UK's 10.6 million disabled people become aware of their extended rights and the legal remedies available to them.

(2. Preamble Cont')

Specific to certain sub-groups of "The Group" there seems to be particular apathy as to their moral duties and legal obligations under the Act. Whilst there are many aspects of DDA Compliance "The Group" as a whole should and must concern themselves with, as already mentioned, the scope of this report, is in the most part, limited to compliance for 'Window & Door Refurbishment'. The DDG is of the opinion that failure to take the necessary steps in relation to DDA Compliance by "The Group" as a whole could well amount to much financial loss in the medium to long term.

The Disability Discrimination Act 1995 is a complex, moral, sensitive and politically charged piece of "Discrimination Legislation". A piece of legislation that whilst complex affects in the region of 10.6 million citizens across the UK, this group is probably the largest and most powerful "*minority group*" in the country. It follows that those organisations within "The Group" that are bold enough to lead the way in terms of innovation and policies that are inclusive for the purposes of DDA Compliance will set new standards.

The commercial advantages for those profit making sub-groups that seize the opportunity within the moment that has undoubtedly manifest itself as a result of Part III of the Act coming into force are tremendous. Be that as it may, the following report is based on an understanding of the requirements as laid out within the layers of this legislation so as to better inform all concerned parties from each sub-group within "The Group" as whole and beyond. Disability legislation reflects the massive commitment of the Government to encourage better design and to build inclusive communities with improved quality of life for all.

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### 3. General Information on the Purpose of Part III of the Act.

On 2 December 1996, the Disability Discrimination Act 1995 (the Act) brought in measures to prevent discrimination against disabled people. Part III of the Act is based on the principle that 'service providers' should not discriminate against disabled people or those involved in the disposal or management of premises. Subject to limited exceptions, anyone who comes within either of these categories must comply with the duties set out in Part III. It should be noted that those selling, letting or managing premises also have duties as 'service providers'.

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### 4. General Information on what 'The Act' makes Unlawful.

#### 4.1 General

The Act makes it unlawful for any organisation within "The Group" or any sub-group to discriminate against a disabled person: by refusing to provide (or deliberately not providing) any service which it provides (or is prepared to provide) to members of the public; or in the standard of service which it provides to the disabled person or the manner in which it provides it; or in the terms on which it provides a service to the disabled person. **References to providing a service include providing goods or facilities.**

It is also unlawful for "The Group" to discriminate in failing to comply with any duty imposed on it by section 21 of the Act, (a duty to make 'reasonable adjustments') in circumstances in which the effect of that failure is to make it impossible or unreasonably difficult for the disabled person to make use of any such service. **The Reference to making use of a service includes using goods or facilities.**

#### 4.2 Aiding Unlawful Acts.

Research carried out by the DDG has uncovered a concerning trend that indicates that a number of large companies within the sub-group 'G4' have actually advised other firms from the G3 sub-group such as smaller window & door fabricators and

(4. General Information on what 'The Act' makes Unlawful). Cont'

installers, that the Disability Discrimination Act 1995 does not apply to them and they should ignore it and any requirements therein. Which if so substantiated could constitute a **criminal offence** under Part VII, section 57 "Aiding Unlawful Acts" subsections (1) of the Act:-

(1) A person who knowingly aids another person to do an act made unlawful by this Act is to be treated for the purposes of this Act as himself doing the same kind of unlawful act.

Subsections - (3) of section 57 of 'the Act' -:

(3) For the purposes of this section, a person does not knowingly aid another to do an unlawful act if :-

- (a) he acts in reliance on a statement made to him by that other person that, because of any provision of this Act, the act would not be unlawful; and
- (b) it is reasonable for him to rely on the statement.

Subsections (4) & (5) of section 57 of 'the Act' -:

(4) A person who knowingly or recklessly makes such a statement, which is false or misleading in a material respect, is guilty of an offence.

(5) Any person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Based on the aforementioned subsections as laid on within Part VII of the Act it could be argued by any such 'fabricator or installer' from the **G3** sub-group, that they themselves would not be acting unlawfully by so ignoring the Act in its entirety should they have received information from said hardware firms from the **G4** sub-group. And that by virtue of their size it was presumed that the **G4** firms had expert legal departments ensuring that all current and relevant legislation was being adhered to, although this argument could only be tested in a court.

However further research indicted that where it was alleged that such claims of exemption were made by hardware firms from the **G4** sub-group the reasons for such claims were purely commercial. In as much as it was thought by those firms that any component compliance requirement under the Act, in all probability could not be met by their existing components that were limited by their current technology.

Whilst it is not the policy of the DDG to make specific allegations of illegal action against any one particular firm or organisation from any of the sub-groups found within "The Group", when one considers the detail of the research undertaken in the context of, the perceived financial impact that compliance with the Act may have within certain sub-groups, this does give cause for concern as is recorded. This could in turn lead toward questions being raised in relation to the 'commercial ethics' of any such **G4** firm making any such claims of exemption. However it is not the policy of the DDG within the context of this report to do more than just raise such questions, although DDG is of the opinion that others from the remaining seven sub-groups may wish to give this due consideration before entering into any contractual obligation with any such **G4** firm.

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## 5. Design & Specification of Window & Door Components.

### 5.1- General.

Relevant to "The Group" as a whole there seems to be a fair measure of confusion relating to what constitutes a DDA Compliance product and whether or not a component affects the compliance status of the overall product.

The DDG has sought to enter into dialogue with a number of organisations within "The Group" as a whole so as to establish a coherent approach as to the

(5. Design & Specification of Window & Door Components.)  
cont'

understanding of specific regulations affecting them, as well as seek a general consensus, in the context of 'Window & Door Refurbishment', as to an appropriate mechanism that ensures non-discriminatory procedures at all levels within all the sub-groups.

These efforts in relation to establishing a coherent approach have brought to light a catalogue of alarming facts that give cause for concern as to the general attitude of a number of firms within sub-groups **G3 & G4** regarding their DDA Compliance responsibilities.

### **5.2 – Legal Clarity**

Whilst it is acknowledged that there are many grey areas surrounding the legislation as a whole or in part, this should not be an excuse to display blatant disregard for what is now the law.

By this the DDG does not wish to infer that any specific organisation or firm within "The Group" is indeed purposely disregarding the law but merely wishes to highlight the fact that absolute legal clarity is not a prerequisite of any action taken regards 'reasonable steps' toward DDA Compliance. Be that DDA Compliance in the form of component, access, procedural, policy or employment.

### **5.3 - Liability for Product & Component Design for "The Group".**

One particular issue seems to be the type of handle components that are being currently and widely fitted to replacement windows, with those windows subsequently being installed into home dwellings.

#### *5.3a - G4 sub-group - (Hardware firms).*

It is widely believed that hardware firms from the **G4** sub-group have no obligation under the Act to modify their products in terms of design or functionality.

Although such modifications could serve to ensure where at all possible those components and products do not discriminate against a disabled person, it is believed that it would only be required if said hardware firms sell such components and products directly to the public, which in most cases they do not.

This in itself raises a number of questions relating to the duty of compliance and the legal obligations to members of the public by other organisations within "The Group" that do, or indeed, are far more likely to transact with members of the public.

#### *5.3b - What are Discriminatory Products?*

The reality is that a product can discriminate against a disabled person by virtue of its design, but obviously a product itself cannot be sued for such discrimination.

So in the context of handle components or any other component that could discriminate against a disabled person as a home dweller the liability for such discrimination would in most instances be expected to fall to sub-groups **G1. G1a G2. G2a. G3. G5 & G6**, as they transact directly with members of the public.

Moreover it is the duty of these sub-groups to ensure that they are doing everything within the scope of their power to ensure that the operational components used to form part of the overall 'Window & Door Refurbishment' into private home dwellings do not discriminate against disabled people. Whether those disabled people be full-time residents, guests, or visitors to any such home dwelling.

In as much as there are products and components available on the market, the

(5. Design & Specification of Window & Door Components.)  
cont'

aforementioned sub-groups can ensure such a standard by incorporating such products and components into the overall 'Window & Door Refurbishment' provided there is no risk to the health and safety of the customer or their installation staff.

With due consideration that the use of such non-discriminatory products or components do not represent an 'unreasonable adjustment' within the context of 'reasonable adjustments' as laid down in the Act.

With this said, firms from the **G4** sub-group, which are responsible for the supply of window & door products and components to other organisations within the "The Group" should be mindful of their legal obligations to such other organisations.

This particular area of legal obligation under the Act becomes clarified as it is further explored. To so explore one has to consider these obligations under various sections and sub sections of the Act in terms of "Aiding of an Unlawful Act".

From the viewpoint of what constitutes the "Aiding of an Unlawful Act", we rely on Part VII section 57 of the Act, (cited in section 4. of this report), as well as "Terms of Agreement", Part III section 26, subsection (1) of the Act;

(1) Any term in a contract for the provision of goods, facilities or services or in any other agreement is void so far as it purports to -

- (a) require a person to do anything which would contravene any provision of, or made under, this Part,
- (b) exclude or limit the operation of any provision of this Part, or
- (c) prevent any person from making a claim under this Part.

So therefore it could be argued that firms from the **G4** sub-group that manufacturer products and components that could discriminate against a disabled person due to their design and/or functionality could, by selling such products to the remaining organisations within "The Group", be aiding an unlawful act under the Act.

#### *5.3c - Remedies for Sub-Groups G1. G1a G2. G2a. G3.G5 & G6.*

There may be more than one remedy for said sub-groups that are holding stock of any products or components that might discriminate against a disabled person. One such remedy may be to challenge the sale contract as void under section 26 of the Act.

In doing so hardware firms within the **G4** sub-group may be legally required to buy back any unused discriminatory products and/or components.

In the consideration of any such action hardware firms within the **G4** sub-group should be mindful that the failure to comply with the Disability Discrimination Act 1995 itself could expose said firms to the possibility of civil proceedings, under the Act, whereas aiding an unlawful act under the Act could render them liable to **criminal prosecution**.

#### *5.3d – Concerns Specific to firms within Sub-groups G3 & G4 of "The Group".*

Our research indicates that many hardware firms within the **G4** sub-group are very large with tremendous resources, whilst firms within the **G3** sub-group may be micro-enterprises operating on tight margins with little capital reserves for legal representation in this and other areas of legislation and regulatory compliance.

(5. Design & Specification of Window & Door Components.)  
cont'

Be that as it may, post 1<sup>st</sup> October 2004, the Act no longer provides a blanket of exemption for such micro-enterprises so it is for them to gain an understanding of their legal position so as to ensure that their transactions with members of the public are not unlawful whereby they could jeopardise the very survival of their business.

*5.3e - Home Improvements Integral to Home Dwellings.*

“The Group” as a whole should consider that the installation of a home improvement such as replacement ‘Windows and Doors’ and related components forms an integral part of a home dwelling. The products that make up such home improvements are not stand alone products that can be easily changed to suit a specific disability such as furniture, electrical goods or kitchen appliances therefore the same standard does not apply.

For example a kettle may be difficult to use if a home dweller was suffering from any number of impairments under the definition of what is a disability under the Act. In that instance the disabled person may be able to easily choose a kettle that is more suited for their particular impairment, this remedy could be applied to a number of appliances or products around the home.

The difference with home improvements such as ‘Windows and Doors’ and related components is that they form an integral part of the building of the home dwelling and as such cannot be easily changed or modified to suit various types of impairment or disability once installed.

It is for this reason that “The Group” as whole must ensure that the components that go to make up the overall product of any ‘Window & Door Refurbishment’ project do not constitute significant barriers for disabled people. This must be done prior to installation, as it would be impossible to predict when a disabled person may come into contact with any discriminatory component or products once any such ‘Window or Door Refurbishment’ is complete.

*5.3f – Concerns Specific to Sub-groups G1. G1a. G2. G2a. G5. & G6.*

Where a home dweller is a tenant as opposed to a homeowner there is absolutely no choice for them with regards to modification of windows and doors so this must be a top priority consideration for professionals and organisations within sub-groups **G1. G1a. G2. G2a. G5. & G6.**

Failure to make this consideration a top priority could result in thousands of disabled tenants becoming quite literally prisoners in their homes unable to simply open their windows just so as to be able to breath some fresh air. This is likely to infringe on their basic human rights, which would be wholly unacceptable by the standards of all local authority, housing association or private / commercial landlords across the UK.

*5.3g – What happens if all types of disabilities cannot be catered for?*

It has been suggested by some firms within sub-groups **G3 & G4** that components such as window handles cannot be designed so as to cater for every type of disability therefore no changes in these specific areas should be made whatsoever.

This argument is barely credible and displays a definitive disregard for 10.6 million disabled citizens who have the right to be treated equally with same amount of due consideration as able-bodied citizens.

To say we will do nothing in terms of ‘reasonable adjustments’ because there may be a chance that any such ‘reasonable adjustments’ will be unable to cater for every type of disability is lamentable and conveys the narrow-minded mindset of firms with no sense of moral duty whatsoever.

**6. At what point does the duty to make ‘reasonable adjustments’ arise for all sub-groups within “The Group”?**

“The Group” as a whole should not wait until they believe a disabled person wants to use a product which they provide before they give consideration to their duty to make ‘reasonable adjustments’.

They should be thinking now about the accessibility and usability of their products to disabled people. “The Group” should be planning continually for the ‘reasonable adjustments’ they need to make, whether or not they already have disabled customers.

They should anticipate the requirements of disabled people and the adjustments that may have to be made for them. Failure to anticipate the need for an adjustment may render it too late to comply with the duty to make the adjustment. Furthermore, it may not of itself provide a defence to a claim that it was reasonable to have provided one. In terms of the installation of home improvements it is impossible to predict when a disabled person may come into contact with products or components such as ‘anti-disabled’ window handles that have been installed into any given dwelling.

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**7. Does the duty of ‘reasonable adjustment’ apply even if the firm or organisation within any of the sub-groups does not know that the person is disabled?**

“The Group” as whole owes a duty of ‘reasonable adjustment’ to “disabled persons” as defined by the Act. This is a duty to disabled people at large, and applies regardless of whether any firm or organisation within any sub-group knows that a particular member of the public is disabled or whether it currently has disabled customers.

For this reason, “The Group” as a whole should be made aware that they might be discriminating unlawfully even if they do not know that a customer is disabled and they should be reminded that not all impairments are visible. The duty of ‘reasonable adjustment’ is best met by “The Group” trying to anticipate the types of problems, which could arise, and by training all relevant personnel as to the duty of ‘reasonable adjustment’ rather than act on assumptions.

The aim should be that, when disabled customers utilise goods, services and products, “The Group” has already taken all reasonable steps to ensure that they can be provided for without being put to unreasonable difficulty.

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**8. How long does the duty continue for “The Group” as a whole?**

The duty to make ‘reasonable adjustments’ is a continuing duty. “The Group” should keep the duty under regular review in the light of their experience with disabled people wanting to utilise their facilities or services, or purchase their products. In this respect it is an evolving duty, and not something that needs simply to be considered once and once only, and then forgotten. What was originally a reasonable step to take might no longer be sufficient and the provision of further or different adjustments might then have to be considered. Equally, a step that might previously have been an unreasonable one for a firm to have to take could subsequently become a reasonable step in the light of changed circumstances. For example, technological developments may provide new or better solutions to the problems of inaccessible products or components.

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**9. DDA vs. Building Regulations Part M.**

**9.1 DDA vs. Part M**

Professionals from sub-groups - **G1. G1a. G2. G2a. G5. & G6** should beware, that compliance with Part M of Building Regulations does not necessarily mean compliance with the Disability Discrimination Act 1995. Even if the guidance in the Approved Document is followed, these professionals can still fall foul of the Act and be sued. The problem is the difference between the two pieces of legislation: whereas Part M is simply about the provision of access to buildings,

the Disability Discrimination Act 1995 is about people.

Under the Disability Discrimination Act 1995, a disabled tenant can ask a landlord or building manager to make 'reasonable adjustments' to accommodate their needs. This might, for example, be a tenant who has difficulty using a toilet, even though it complies with Part M. In some cases concerned members of sub-groups **G1a, G2a, & G6** (- *as Landlords & Building Managers*) might still find themselves forced to alter other parts of their building.

## **9.2. So just what is in Part M that makes it so different from the DDA?**

### *9.2a - Window & Door Handles and Integrated Components*

Part M covers new work to new buildings, but the DDA applies to most types of building and in many cases applies **retrospectively**. The DDA also has a wider definition of disability: Part M limits the definition of disability to those with impaired mobility, hearing or sight. The DDA covers impairments in areas such as manual dexterity, physical co-ordination, speech and memory.

For example, someone with manual dexterity impairment may be unable to use a light switch, tap or an entry system because of its design. Similarly they may not be able to simultaneously operate a 'window handle' with a key and push button locking mechanism or a 'door handle' and a push-button code lock, or have difficulty opening doors with poorly adjusted self-closing devices.

None of these common building elements is mentioned in Approved Document M, yet they can constitute significant barriers.

But it is not only in the definition of impairments that the two documents differ. Approved Document M aims to meet a range of needs of disabled people but, under the DDA, standard designs may have to be changed to suit the specific needs of an individual disabled tenant or home dweller because "one size" may not fit all.

### *9.2b - Door Handles concerning professionals within sub-groups G1, G2 & G5.*

Steel door handles could very well be illegal and architects who specify stainless steel door handles risk being sued under the Disability Discrimination Act 1995. Research indicates that the visually impaired had trouble locating door handles made from stainless steel and polished brass. Under the Act, disabled people will be able to sue if they can prove that a design discriminates against them.

#### *- (Academic Report)*

A joint report by Reading University, the Royal National Institute of the Blind, ICI and door manufacturer Turnquest looked at the colour and tonal contrast between doors and ironmongery. As polished metal has a high reflectance the report found that the partially sighted had problems discerning between the handles and the door surface.

The report says that stainless steel, satin (frosted) steel and polished brass should not be combined with wood finish door colours, and that stainless steel and polished brass should not be used in conjunction with Formica. To ensure compliance with the Act professionals from sub-groups G1, G2 & G5 must conform to BS 8300:2001, which says: "All door furniture should contrast in colour and luminance with the surface of the door for easy identification."

**10. Contracts and project ‘Tender Guidelines’ Concerning all Sub-groups within ‘The Group’**

Firms within sub-groups **G3 & G4** (window & door and hardware firms) should be mindful of the legal obligations of professionals & organisations within the remaining six sub-groups within “The Group” as a whole, as a result of the Disability Discrimination Act 1995, especially since Part III of the Act is now in force.

Professionals from sub-groups **G1, G2, G5, & G6** may be obliged to seek a ‘DDA Compliance Affidavit’ so as to meet the requirements of their professional indemnity or public liability insurance before specifying products and components as part of an overall refurbishment or new build contract.

It is imperative that local housing authorities and housing association specifiers have all aspects of DDA Compliance at the forefront of their consciousness at all times. As landlords and building managers it is the local housing authorities and housing associations that have a direct duty of compliance under ‘the Act’, to all tenants and home dwellers that occupy their properties.

These sub-groups cannot afford to allow any contractor or supplier that has not moved toward DDA Compliance in a robust way to continue the provision of contract or the supply of goods or services. By doing so individual specifiers and the local housing authorities or housing associations they work on behalf of could be leaving themselves open to potential lawsuits for disability discrimination and injury to feelings that could quite literally run into millions of pounds, not to mention the inevitable ‘adverse publicity’.

It should be remembered by firms within the **G3 & G4** sub-groups (window & door and hardware firms) that local authorities are local government and they spend ‘public money’ to fund their refurbishment and new build contractual requirements. This means that central government expects local government to set the standard as far as legislative compliance is concerned.

Local authorities in sub-groups **G1 & G1a** are duty bound to be mindful of the amount of public funds they have at their disposal, and the responsibility that comes with the disposal of such funds. Whereby they are committed to act in accordance with all legislation that has come into force so as to protect all members of the public as well as the ‘public purse’ itself.

**11. Discrimination in Areas of ‘Window & Door’ Refurbishment. (and their remedies)**

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**11.1 - Window Handle Component Technology.**  
*(Introduction) - Groups affected G1, G1a, G2, G2a, G.5 & G6*

The subject of ‘Window Handle’ component technology has been mentioned in various sections of this report. Such is the importance of these components, which for their everyday use enables people to do something as simple as open their windows for fresh air and in more significant times increases’ basic levels of home security & safety, that this entire section will explore the current technologies available as well as look at steps taken by the relevant sub-groups in terms of innovation so as to create non-discriminatory inclusive design solutions.

**11.2 - Current Market.**

Our research indicates that there is currently in the region of 15 million handles sold each year within the UK, which equates to in excess of 41,000 handles sold every day of the year. Or potentially 15 million significant barriers installed into home dwelling each year across the UK. A product that is essential to everybody’s home dwelling, a product that enables us to open a window, something which able-bodied people take for granted.

### 11.3 – 'Generally Specified' Technology.

At the time this report was compiled most of the 'window handles' being fitted to replacement windows incorporate a 'push button & turn key locking mechanism' This technology is widely used and on the face of it seems to provide home dwellers with a relatively easy way in which they can open their windows as well as improve their home security by being able to *deadlock* the handle when the window is in the closed position.

#### 11.3a - Specific Disabilities & Significant 'Window Opening' Barriers.



##### - (Manual Dexterity Impairment – 2.3million)

If in the first instance we look at the statistics for manual dexterity impairment in the UK we find that somewhere in the region of 2.3 million people are affected by this type of disability to a lesser or greater degree. This means that these citizens may find it difficult to fully clench their hands, manipulate their fingers to grip small/fiddly objects or just simply grasp things with any measure of force. When we take a closer look at the 'generally specified' technology in relation to window handles as mentioned it is clear to see that a push button mechanism coupled with the requirement of a physical turn of a small metal key in order to release a window from its typical locked position could represent a significant barrier for the home dweller that may have a disability of this nature. DDG research also indicates that this type of technology can also affect much of the UK's 9.2 million elderly citizens who may be suffering from un-recorded, but nevertheless common mild arthritis whereby they may find the dual action of pushing a button whilst turning a key equally as difficult.



##### - (Visual Impairment – 2.5million)

It is estimated that in the region of 2.5 million people in the UK are affected by some level of visual impairment. Our research indicates that these citizens find it very difficult to operate a 'window handle' that incorporates the said technology, which requires the inserting of a small metal key into a target slot no bigger than 1.5mm in diameter. A feat for most able-bodied people to accomplish swiftly, a significant task set for any home dweller that may have even the minimum level of visual impairment.



##### - (Physical Coordination Impairment – 5.6million)

It is estimated that in the region of 5.6 million people in the UK are affected to a greater or lesser degree by physical coordination impairment. With many types of physical coordination impairment locating the barrel of the lock within the handle with the small metal key could prove difficult. So too could the pushing of a button whereby the task would be exacerbated should both have to be performed simultaneously. Something that most able-bodied people take for granted such as opening a window for some fresh air, in itself becomes a stressful and long-winded task at best, and at worst, an actual impossibility.



##### - (11.3a - Section Overview)

When we look at the statistics it is hard to believe that such frequently used home products that have the potential to be significant barriers to so many people have not already been outlawed. Especially when one considers the size of the market, which gives an idea of the likelihood of someone from any of the aforementioned groups coming across such a significant barrier.

Coupled with the fact that these components form part, of what is commonly known as a "home improvement", it becomes increasingly difficult to see just how these components can be seen as part of an installation that improves the home.

Be that as it may, the question we sought to be answered was; what steps have been taken to remove these barriers in home dwellings so that both the disabled

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along with able-bodied people can carry out a simple task like that of just opening a window as and when they wish.

#### **11.4 - Industry Innovation from firms in the G4 sub-group.**

After months of research it has proved difficult to find any number of firms within the G4 sub-group that have dedicated any real time or resources in terms of product and component innovation that could lead to effective solutions or alternatives to the widely used 'anti-disabled' handle component.

The general attitude coming from this sub-group was one of apathy and a reluctance to act unless legally required to do so. When one considers the size of this specific component market and the potential financial gains should a policy of inclusive design be adopted by the G4 sub-group this became hard to understand.

One of the main issues was whether there was any alternative to the current widely used 'anti-disabled' handle component that incorporated a push button, key barrel and metal key mechanism so as to activate the locking and opening of a window.

Initially our research indicated that there was no such alternative and most within the G4 sub-group seemed far removed from the concerns of disabled people, as they were not selling products directly to the public. This obviously raises a number of concerns, some of which have already been outlined in previous sections of this report. However upon further research it was found that there are indeed a number of alternatives to the push button and metal key mechanism that indeed could offer a non-discriminatory solution if incorporated into the overall installation of replacement windows.

#### **11.5 - Non-Discriminatory Component Solutions. (Inclusive Designs)**

##### **11.5a - Standard Lever Handles – (Non-Locking)**

The first and probably most obvious alternative to the 'anti-disabled push button and key locking handle' would be a basic non-locking window handle. Simply put the same handle without the push button or key barrel therefore requiring no key to be located or turned, making it much easier to operate for those disabled people with impairments as previously described.

One of the major concerns when considering the non-locking option is the overall security of a 'Window Refurbishment' project once completed. Indeed many insurance companies state that locking window handles are a prerequisite to the provision of home and contents insurance for home dwellers.

It could also be argued under the Act, that such an adjustment whilst removing a significant barrier for disabled people, in doing so is actually putting them at greater risk. A greater risk from burglary and home invasion, where belongings and personal items of value may be stolen. And in more tragic situations, non-locking handles remove a 'first porthole' safeguard, in as much as they cannot prevent young inquisitive children from opening windows situated in rooms of high-rise accommodation, which if unsupervised could lead to unthinkable consequences.

Although this component is deemed to be a compliance product, based on the above risks, whilst still unlikely in the extreme, the non-locking alternative to 'anti-disabled handles' is not one that could be plausibly recommended by any responsible group.

##### **11.5b - Electrically Automated Locking Handles - (Keyless Locking)**

DDG research indicates that there is an automated system available whereby

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window handles can be locked and unlocked electronically by way of remote control key fob, which seems to remove significant barriers relating to ‘physical actions’ as cited throughout section 11.3a of this report.

This system is fully maintained and wireless, it is also easy to fit and provides active protection for home dwellers. When this system is activated by smoke or fire, the smoke detectors within the dwelling release the windows to ensure keyless escape without compromising security.

Another advantage of this automated system is that windows cannot be easily opened by young children without the use of an electronic key fob, ensuring maximum precaution toward child safety within high-rise accommodation.

The incorporation of this innovative automated technology appears to provide a suitable remedy so as to put an end to the practise of the installation of ‘anti-disabled’ handle components into home dwellings in the UK.

Our preliminary research has discovered that the monetary cost to install such a system throughout an average home dwelling could be in the region of £1800-£2000 exclusive of VAT at the prevailing rate.

DDG research indicates that this technology does not put the home dweller at any greater risk in terms of health and safety as a result of its incorporation into the overall installation. Therefore it can be assumed that this particular technology does not represent an ‘unreasonable adjustment’ as that which could be determined as such under the Act.

Based on the information as recorded within this report the DDG would recommend to sub-groups *G1. G1a. G2. G2a. G3. G5. & G6* in the context of DDA Compliance, that they should seek to incorporate such technology when planning home dwelling ‘Window Refurbishment’ projects.\*

#### ***11.5c - Magnetically Operated Locking Handles – (Keyless Locking)***

Once again when considering an alternative to the still widely used ‘anti-disabled handle’ the focus moves towards monetary cost sensitive technology that can be incorporated into a handle component. Such a component seems to be able to provide an inclusive design solution, whilst compromising none of its customary functionality features in the context of its intended use & general appearance.

DDG research indicates that this component would blend in well with all types of home dwelling environments, and could not be labelled as an unsightly “disabled product” thus not creating any kind of stigma. This component is universally easy to operate, whilst at the same time it seems able to remove the significant barriers relating to ‘physical actions’ as cited throughout section 11.3a of this report.

Such a handle component is available on the market today, although it is not thought to be widely used at this time. The handle component in question incorporates a technology called “Calibrated Bi-Directional Magnetic Flux”. Essentially this technology replaces the push button and key locking barrel of the ‘anti-disabled’ handle with a magnetic mechanism.

This means that there is no requirement for a metal key to activate the locking or unlocking of a window handle thus removing significant barriers that are apparent with the ‘anti-disabled’ window handle component. Instead of a metal key that has to be inserted into a narrow slot this technology relies on an *easy to grasp* magnetic fob (key), which is simply placed within 10mm proximity of the handle so as to activate the lock release mechanism.

When the magnetic fob (key) is attached to the handle by way of magnetism a Green LED flashing light alerts the home dweller that whilst the handle may be in the closed position the handle itself is not ‘deadlocked’ and the magnetic fob (key)

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should be removed to ensure maximum safety, security and protection.

There are a number of variations to the handle component that incorporate this innovative technology and there are additional "grip-aids" incorporated into the magnetic fob (key) for those disabled home dwellers with perhaps slightly more acute impairment than others.

DDG research indicates that there are a number of firms within the **G3** sub-group that already use components that incorporate this technology as standard.

The incorporation of this technology into window handle components appears to provide a suitable remedy so as to put an end to the practise of the installation of 'anti-disabled' handle components into home dwellings in the UK.

Preliminary research has identified the additional monetary cost to fit such a handle component throughout an average home dwelling would be in the region of £18-£28 exclusive of VAT at the prevailing rate.

DDG research indicates that this technology does not put the home dweller at any greater risk in terms of health and safety as a result of its incorporation into the overall installation. Therefore it can be assumed that this particular component does not represent an 'unreasonable adjustment' as that which could be determined as such under the Act.

Based on the information as recorded within this report the DDG would recommend to sub-groups *G1. G1a. G2. G2a. G3. G5. & G6* in the context of DDA Compliance, that they should seek to incorporate such technology when planning home dwelling 'Window Refurbishment' projects.\*

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## 12. Possible Lawsuits & Compensation Claims.

### *12.1 - Precaution before Cure for sub-groups G1. G2. G3. G5. & G6*

As lawsuits, and compensation claims are seemingly spread throughout every sector and affect almost every professional it is vital that professionals, within the aforementioned sub-groups, are aware of the areas that could leave them exposed to legal action. Be that for disability discrimination and/or "injury to feelings" compensation claims, as a result of specification oversights that could and should have been avoided.

- (*Diligence*)

Part III of the Disability Discrimination Act 1995 coming into force on the 1<sup>st</sup> October 2004 gives rise to the necessity for even greater diligence by sub-groups **G1a. G2a. & G6** (*as Landlords & Building Managers*). This on top of ever-increasing building regulations mean the challenges for the professionals and organizations they represent within the aforementioned sub-groups are formidable.

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## **Report Summation.**

The Disability Discrimination Act 1995 is a particularly complex piece of legislation. The impact of Part III of the Act coming into force on the 1<sup>st</sup> October 2004 is just beginning to be felt across the business sector in the UK.

The aim of this report is to highlight specific areas of non-compliance that relate to the aforementioned sub-groups as outlined within **Section 1** of this report, namely 'Window Handle' components. The reason for this is simply that these components that are incorporated into refurbishment and replacement home improvements both within the private and public sector represent significant barriers for disabled home dwellers.

(Report Summation cont') This seems to be an area that has been largely ignored by "The Group" as a whole and if no action is taken by all those concerned within the relative sub-groups then many millions of disabled or elderly home dwellers will continue to suffer unnecessarily. We find this to be a totally unacceptable situation, and as such through this report and the continued research carried out and the advice given we aim to bring this to the fore along with many other areas of concern involving discriminatory practises involving disabled people.

It is conceded that whilst this report within its title talks about windows and doors the bulk of the report focuses upon windows and window handle components. This should not be taken to be contradictory or misleading, due to the special emphasis on 'window handle' components. Rather be viewed in the spirit of the report as a whole. In doing so one would conclude that the emphasis given to window handle components indeed was justified when it is considered the amount of 'window handle' components that may be found in the average home dwelling. Coupled with the fact that information thus provided for in relation to replacement doors is far better documented through many other sources and has been addressed far more comprehensively through other regulatory documents in terms of access and functionality.

The eight sub-groups that make up "The Group" as a whole, for the purpose and focus of this report were determined by a number of factors which were considered in relation to interested and concerned parties within and outside the window and door manufacturing, fabrication and installation sectors.

One part of that determination was influenced by the identification of organisations with a level of social responsibility that would not be unduly influenced by commercial considerations.

Another part of that determination was influenced by the identification of professional bodies that could be so regarded as possessing a level of integrity that would ensure that paramount in the process of their decision-making would be a natural leaning toward what is in the best interests of disabled people.

As with any document as specific as this it was vital that those firms within the industry concerned were duly considered for their expertise and knowledge. Whilst this has not been overlooked after a number of months of research it was determined that many firms within the **G3 & G4** sub-groups were not sufficiently motivated so as to be able or willing to provide the level of substantive expert opinion as may have been requested during the research period.

Rather our research indicates that many firms within the **G3 & G4** sub-groups seemed either totally unaware that the Disability Discrimination Act 1995 was in existence, or they did not wish to concern themselves with any aspect of the Act that may cause them any type of inconvenience regardless of the impact their inaction may or may not have on disabled people within the wider community.

**DDG will make this a matter of record that many firms within the G3 & G4 sub-group have displayed a blatant disregard for the Disability Discrimination Act 1995 in its entirety. This relates to compliance in all areas including components, policies, procedures, access and employment.**

This is regarded as yet another stain on an industry that it was thought had done much to restore its universally tarnished image over recent years. Be that as it may DDG has an obligation to highlight these disturbing findings within the context of this overall report as it feels it has a public duty to do so.

So when speaking about public duty and public accountability it may be so that firms within the **G3 & G4** sub-groups do not have to reveal their policies and

(Report Summation cont') practises to the general public as a matter of course except through normal statutory compliance as laid out within the companies Act.

Whereas local authorities and those individuals that hold positions with procurement powers within local authorities are publicly accountable. There could be an argument to support the idea that those individuals take into consideration the contents of this report in its entirety when considering which firms from the various sub-groups as mentioned should be considered as "suitable" to fulfil lucrative tendered contracts for 'window and door' replacement, installation or refurbishment.

It is the contention of DDG that any such firms within the relevant sub-groups that do not take their duty of compliance with the Act or any other legislative regulations seriously, should not be in a position to benefit financially from contracts and tenders funded by 'public money' awarded by local government. As every local authority throughout the UK shall receive a copy of this report DDG will be monitoring any response and feedback, and upon request so inform any local authority in relation to any evidence of policies of disability discrimination from such firms as described.

The fundamental issue is what should be taken from this report and how "The Group" as a whole can use its contents to improve their understanding and overall DDA Compliance. Enabling "The Group" as a whole to contribute to a fairer more equal society whereby the 10.6 million disabled people are no longer marginalized or discriminated against.

The enforcement of Part III of the Disability Discrimination Act 1995 on the 1<sup>st</sup> October 2004 represented a massive change in the way in which all organisations must look at disabled people whatever the size of said organisation anywhere in the UK. This complex piece of legislation that is the Disability Discrimination Act 1995 cannot be over emphasised, nor the importance of the many issues raised within this report.

As with "The Group" as a whole if all sub-groups work for the collective benefit of the ultimate end user, which is each and every UK home dweller, then many positive changes can and will take place. The Group as a whole has a collective responsibility to the wider community, as without that wider community there is no "Group".

The fusion of human rights and disability rights awareness coupled with policies that embrace sound business practises as well as diversity and innovation can and will change the lives of millions of UK citizens. This is what is at stake for "The Group" as well as the sector; DDG invites all firms and organisations within all the sub-groups to use this report as the basis for their inclusive non-discriminatory change toward DDA Compliance.

## **For further information.**

Free information about the Act and the Code of Practice, and other Provisions of the Act including those relating specifically to this report "Discrimination in Areas of Window & Door Refurbishment" can be obtained by contacting the DDG.

**Call Centre Support:** 0845 201 1246 - (Mon-Fri 9am-6pm)

**Faxback Support:** 0845 201 1247 - (Please allow 24 hours for reply)

**E-Mail Support:** equalityforall@ddg.org.uk - (Please allow 24 hours for reply)

Or visit us at [www.ddg.org.uk](http://www.ddg.org.uk) for general information. This report is also available in large print and Braille. Please contact the DDG if either is required.

## **Legal Statements**

### **\* (Legal Statement)**

As outlined within this report DDG research and investigations has identified that specific components, products or technology incorporated into the *'Electrically Automated Locking Handles'* and the *'Magnetically Operated Locking Handles'* may reduce significant barriers experienced by disabled people with impairments, as home dwellers, as described within the sub-sections of section 11.3a of this report. This should not be taken to imply that the DDG itself in any way endorses, in commercial terms, these components, products or technology or those companies that manufacturer or distribute these components, products or technology. The DDG wishes it to be known that under no circumstance shall the DDG, be in any way liable for the installation of such components, products or technology. The information contained within this report based on the research as described is recorded and distributed for guidance purposes only. Whilst the DDG will use its best endeavours to promote and encourage equal rights and an end to discrimination in all of its forms it remains the position of the DDG not to promote or represent any one commercial organisation regardless of how favourable their policies, procedures, components, products or technology may be toward disabled people or any other minority group.

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