

## Disability Rights UK Response to:

### “Draft guidance for Returning Officers: Assistance with voting for persons with disabilities”

#### Electoral Commission Consultation 2022

Disability Rights UK is a national organisation led by Disabled people. Our vision is a world where Disabled people have equal rights, opportunities, and access to power. Our work is rooted in the lived experience of Disabled people. We are a membership organisation and work closely with organisations led by Disabled people, across the UK.

Disabled people make up [22% of the UK population](#), that's 14.6 million people. Unlike other protected characteristics – becoming Disabled can happen to anyone at any time. With an ageing population, it will likely impact most people in their life at some point – yet Disabled people consistently face barriers when trying to vote, especially when trying to vote independently and in secret. We also know that the elections act (particularly its introduction of compulsory voter ID) will have made this process even more difficult.

#### Feedback on the Returning Officer's (RO's) draft guidance:

##### Section 1: Barriers to voting

- **The framing of “barriers” and whose responsibility it is to tackle them.**

This guidance must consistently and explicitly highlight RO's anticipatory duties under the Equality Act, rather than just outline the legislation at the start. It's essential that every RO embeds accessibility into their election planning. The population includes Disabled people and our need to vote independently and in secret, or supported by a companion of our choice, must be built into the foundations of how ROs deliver elections.

When explaining the common barriers to voting, the framing of this and the examples used almost exclusively focus on the individual's impairment rather than societal barriers. Focusing on the individual's 'struggles' softens the responsibility to remove barriers. For example, if the focus is on how a Disabled voter is “anxious” about voting – that can be read as the voter's responsibility to manage, rather than the RO's responsibility to support and remove the barriers that might be causing that anxiety.

Although there is nothing flawed or incorrect about the examples of barriers provided – and it is important to highlight common barriers – it is also important that the language around ROs responsibility to remove common barriers is as strong as it can be, and there is no confusion around certain barriers or difficulties just being inevitable or unavoidable – or, worse, the fault of the Disabled individual.

Additionally, when highlighting examples of barriers, there is almost no mention of the discrimination that can be faced at polling stations when Disabled voters are turned away, or are not supported to vote independently, in secret or with dignity. These experiences are alluded to – for example, one reason given for anxiety towards voting is “previously having had a negative experience in the polling station” – but this is, not only vague, but also frames the example through the Disabled voter’s emotions rather than the legal duties of ROs to ensure an accessible voting experience. This frames the voter’s anxiety as the barrier to voting rather than the real risk of facing discrimination and that causing valid distress to Disabled voters.

The framing of these barriers are important, because all the while we view certain barriers as the issue of the Disabled person – we are unable to recognise that there are ways and solutions to tackle and remove those barriers, and that this is the responsibility of those delivering elections.

A point on culture may also be worth making, i.e. ensuring that staff are open to learning about new barriers. Having an extensive list of common barriers is helpful, but not if ROs see that as an ultimate check list. It’s important that ROs and staff understand they may not be aware of every potential barrier, but that they listen and support when new barriers are identified by Disabled voters – instead of ignoring them because they believe they’ve ticked all the boxes. This is also about culture, a greater awareness, and a want to understand and be supportive.

- ***Recommendation: Improve the way in which “barriers” are framed in the guidance and strengthen the language around the duties of ROs, ensuring that the anticipatory duty of the Equality Act is always clear.***

## **Section 2: Provision of equipment**

- **Details regarding legal duties and next steps if adjustments are deemed unreasonable.**

At the beginning of the guidance, all relevant legislation is outlined, and the legal duties briefly explained, alongside the statement that Disabled people have a right to access voting safely and with confidentiality. But then, under the section on equipment and adjustment requests, there is a large focus on the various reasons a RO can refuse an adjustment request. There is then no clarification on what happens to Disabled voters if their adjustment is refused and what tools they have to either challenge this or access the election in a different way.

It’s made clear that Disabled individuals should have the same access to elections as the non-Disabled electorate, but then a list is provided of all the occasions when that access can be refused (e.g. unreasonable cost, whether it’s deemed to not impact enough Disabled voters etc.) – with no next steps on how that voter can still access their vote without their requested adjustment or equipment.

Disabled voters should be asked to advise on what a reasonable adjustment would be – and this guidance needs to put a greater emphasis on the choice and control of the Disabled individual, particularly if their request for an adjustment is refused.

There is also a question of accountability here. The guidance states that a “clear audit trail of your decision making process” will be needed, but no details are given on who will be checking this, and where the accountability comes from if it’s found that decisions to refuse adjustments weren’t on reasonable grounds.

- ***Recommendation: Greater clarity is needed on legal duties and accountability, and support must be provided for voters post-the refusal to implement their requested adjustment – including clear next steps to challenge this decision.***

### **Section 3: Ensuring those working to support the poll are aware of accessibility needs**

- **Language and training**

More explicit language is needed regarding the need for training and awareness. The word “should” is consistently used in regard to delivering training etc., but those who work in polling stations and on the wider delivery of elections **must** be aware of how to support those with disabilities when voting.

This essential training must be coproduced with Disabled people and delivered by Disabled people. Disabled People’s Organisations (DPOs) are pan-disability and understand the social model of disability, which makes them good partners.

These organisations are mentioned later in the guidance in relation to dissemination of information, but it’s vital that they’re also included in the training of staff. Resources are linked to in the guidance by larger, not-Disabled led, organisations – but the guidance should also signpost ROs to finding their local Disabled People’s Organisation (DPO). Grassroots Disabled people led organisations are not only the best people to go to regarding training and education, but they will also have the best awareness of what barriers Disabled voters are consistently facing in their local area – therefore they can highlight these issues to staff so that they know how to tackle them.

- ***Recommendation: Stronger language around the necessity of training and compulsory collaboration with Disabled-led Organisations in the creation and delivery of training.***

### **Section 4: Raising Awareness**

When considering how to raise awareness, there are several online examples provided in the guidance. Ensure that not all avenues of communication depend on technology, and that those digitally excluded will also be reached.

Accessible features should be promoted in voting cards and other literature. We should be told if there is accessible parking, whether the building is wheelchair accessible, whether a tactile template will be provided, whether there are larger voting booths to accommodate companions, whether there are a variety of easy grip pens etc. before we arrive at the polling station.

## Section 5: Evaluation

Accountability is an issue when it comes to being refused access to voting as a Disabled person. In fact – accountability is an issue across the board when the Equality Act isn't implemented in any context.

The guidance considers the need for the evaluation of practice, and highlights that voters can give feedback after elections, but there should also be an explanation included on what happens if an evaluation finds that voters weren't able to access the election.

Despite outlining the legislation at the start, this overall often reads like optional guidance, with no system of accountability identified if accessibility isn't effectively implemented. Without clear routes of accountability when ROs fail to make elections accessible, it is less likely that the guidance will be followed, and Disabled voters will not be able to access elections.

### Additional points to highlight:

Although outside the remit of the Returning Officer's guidance, we wanted to take this opportunity to highlight some additional barriers to voting, which returning officers should be made aware of and policy-makers should prioritise tackling:

- **Equipment needs improving** - There are serious problems with the tactile voting template. In 2019, the High Court found that [tactile voting equipment is unlawful](#) and a parody of the electoral process. The current device doesn't enable blind people to vote independently and in secret. The government must design a new device in consultation with blind people and explore options for using technology within the polling station.
- **Accessibility of registration** – Disabled people not being able to access elections is more than the accessibility of voting, it's also about the accessibility of registering to vote, and now applying for voter ID where necessary. Online voter registration isn't accessible to everyone. Equally – when registering, voters should be given the opportunity (if they wish) to share any reasonable adjustments they have on the day, so that these can be planned for in advance.
- **Barriers to manifestos** – Manifestos and other party materials are often not made available in accessible formats and can be difficult to understand. There is also a lack of consistency around when they are published and how one can access them across different parties.

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