



New accessibility regulations for UK public sector websites and apps

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Key takeaways

- New regulations come into force for UK public sector bodies on September 23, 2018, setting accessibility standards for their websites/mobile apps.
- Public sector bodies should assess whether the Regulations apply and, if so, whether compliance would be a disproportionate burden.
- If compliance is required, a review of existing and planned websites and apps should be carried out, in line with the implementation timetable.
- An accessibility statement should be prepared and published, where necessary.
- Non-compliance could result in discrimination claims and reputational damage.

Introduction

On September 23, 2018, the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 come into force, requiring UK public sector body websites and mobile apps to meet specified accessibility standards.

With websites and apps now ubiquitous across all public sector bodies, careful consideration of the Regulations at an early stage is advisable to ensure that the implications are provided for, the requirements planned for and the specified timescales met.

This note explains when and to whom the Regulations apply, what they require, and what happens in the event of non-compliance.

Key dates

The Regulations do not apply immediately to all public sector body websites/apps, but are implemented in three stages, giving organizations time to get ready.

When the Regulations apply / What they apply to

September 23, 2019 / New public sector body websites (being those published on or after 23 September 2018)

September 23, 2020 / Existing public sector body websites

June 23, 2021 / Public sector body mobile apps

Who is affected?

The Regulations apply to websites/apps of UK public sector bodies (e.g. NHS Trusts), which includes (a) the state, (b) regional or local authorities, (c) bodies governed by public law, and (d) associations formed by authorities/bodies referred to in (b) or (c).

There are, however, several exceptions. For example, public service broadcasters fulfilling a public service broadcasting remit, non-governmental organizations (unless providing services essential to the public or addressing the needs of those with disabilities), and schools/nurseries (except in relation to content relating to essential online administrative functions) are exempt.

Particular content is also exempt, including some office file formats published before September 23, 2018; live time-based media; online maps and mapping services; third-party content that is neither funded nor developed by, nor under the control of, the public sector body; and the content of extranets and intranets published before September 23, 2019 (or until such time as they undergo a substantial revision).

What are the obligations?

The accessibility requirement and disproportionate burden

Public sector bodies to which the Regulations apply are required to comply with the "accessibility requirement," unless doing so would be a "disproportionate burden."

The accessibility requirement is defined as making a website/mobile app accessible by making it perceivable, operable, understandable and robust. According to government guidance, a website/app will meet the requirements if it satisfies European accessibility standard EN 301 549 (which uses the Web Content Accessibility Guidelines (WCAG) 2.0 to level AA, but may be updated to use WCAG 2.1). The government guidance also explains the meanings of perceivable, operable, understandable and robust:

Perceivable: Information and user interface components must be presented to users in ways they can perceive in some way - it can't be invisible to all of their senses

Operable: Any person must be able to use interface components (such as buttons and forms) and navigation - these can't require interaction that a user can't perform

Understandable: Users must be able to understand any information presented, as well as being able to operate the interface (the content or operation cannot be beyond their understanding)

Robust: Content must be capable of being interpreted reliably by a wide variety of user agents, including assistive technologies such as screen readers and users should be able to access the content as technology changes over time

In determining whether there is a disproportionate burden, an assessment must be carried out that considers factors including the size, resources and nature of the public sector body, and the estimated costs and benefits for the public sector body in relation to the estimated benefits for persons with disabilities, taking into account the frequency and duration of use of the website/app.

If the conclusion is that a disproportionate burden would result, then the public sector body should explain in its accessibility statement (see below) which parts of the accessibility requirement could not be complied with and, where appropriate, provide accessible alternatives to documents held that are not available on the website/app.

Accessibility statements

Public sector bodies to which the Regulations apply must also prepare an accessibility statement and keep this under regular review.

The statement must be in an accessible format. For websites, the statement should be published on the public body's website, and for apps, it should be available either on the website or alongside other information available when downloading the app.

The statement must also provide:

- An explanation of any content that is not accessible and the reasons why.
- A description of any accessible alternatives provided, where appropriate.
- A description of, and link to, a contact form that enables a person to notify the body of any failure to meet the accessibility requirements, and request details of information excluded under regulations 3(2) (particular content) and 6 (disproportionate burden).
- A link to the enforcement procedure set out in Part 5 of the Regulations.

Presumed conformity

Websites/apps that meet certain standards will be deemed to be compliant with the accessibility requirement. These include certain harmonized standards published in the EU's Official Journal; or, where there are no harmonized standards, fulfilling relevant requirements of the European standard on accessibility requirements suitable for public procurement of ICT products and services in Europe.

Sanctions and enforcement

Non-compliance with the accessibility requirement will be treated as a failure to make a reasonable adjustment (as per the relevant sections of the Equality Act 2010 and the Disability Discrimination Act 1995), and may ultimately result in claims for discrimination and reputational damage.

Individuals have the right to complain to the relevant enforcement bodies where there is a failure to comply with a request (by the individual) for information to be provided in an accessible format.

The Minister for the Cabinet Office may also undertake an assessment into whether the requirements on accessibility statements have been met - which may result in requests for further information to be provided, the public sector body being notified of their non-compliance, and the organization's name being published.

If you require further information or have any questions in relation to the above, please contact Mark Vipan, Partner, IPT, or Lesley Lazenby, Professional Support Lawyer, IPT

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