

Information Note – August 2019

THE PUBLIC SECTOR BODIES (WEBSITES AND MOBILE APPLICATIONS) (No.2) ACCESSIBILITY REGULATIONS 2018 (also known as the Web Accessibility Regulations)

The Regulations came into force on 23 September 2018. The purpose of the regulations is to improve the accessibility of public sector websites/mobile apps so that they can be used by as many people as possible. They build on existing obligations to disabled people under the Equality Act 2010 and the duty to make reasonable adjustments for disabled people.

The regulations apply generally to public sector body websites and apps, which includes local authorities. It is NALC and KALC's view that the Regulations apply to local councils. **Please read NALC Legal Briefing L09-18** which can be downloaded from the NALC website <https://www.nalc.gov.uk/> (Legal Briefings – Information Law) and the KALC website www.kentalc.gov.uk (Members Area, Legal, Information Law).

Important Dates

What's covered	Deadline to comply with the regulations
New public sector websites published after 22 September 2018	22 September 2019
All other public sector websites	22 September 2020
Public sector mobile applications	22 June 2021

What you need to do

There are 2 main requirements:

1. Meet the accessibility standards – this means making your website perceivable, operable, understandable and robust. This can be done by meeting accessibility standards – WCAG 2.1 AA or its EUI equivalent EN301 549.
2. Publish an accessibility statement – see the Government Digital Service sample accessibility statement at [DGS - sample accessibility statement](#)

If your council website is not compliant by the relevant date, then (like GDPR) it will be important that the council can demonstrate that it is working towards compliance.

A council is not required to comply with the accessibility requirement if doing so would impose a disproportionate burden on the council. A council seeking to rely on this exemption must perform a disproportionate burden assessment, which would need to include (a) the size, resources and nature of the council and (b) the estimated costs and benefits for the council in relation to the estimated benefits for persons with disabilities, taking into account the frequency and duration of use of the specific website or mobile application. Things like lack of time or knowledge cannot be taken into account. See Appendix 1 for further details.

How to do this and how Government Digital Services can help

Here are some steps you can take to meet the requirements and to make sure your website is accessible as possible:

- See Appendix 2 for what accessibility is and why you need to invest in it. This includes what you need to do and provides links to resources that can help you;
- Contact your website provider to make sure they are aware of the WCAG2.1 AA standard requirements and are familiar with the guidance;
- Make sure fellow employees and the council as a whole are aware of the regulations and the guidance;
- Identify which parts of the website are and are not accessible/meet accessibility standards and which parts do not;
- Consider including accessibility as part of the contract evaluation when signing off on technology spend or procurement;
- Make sure there is expertise within the council by advocating for people to receive training in accessibility.

What is NALC and KALC doing to support member councils?

- As already highlighted, NALC has provided a Legal Briefing on the web accessibility regulations – L09-18.
- KALC will be running 2 pilot accessibility training sessions for member councils – details will be placed on the KALC website shortly (www.kentalc.gov.uk).
- KALC is continuing to work with Kent County Council and the University of Kent to produce further support and guidance.
- KALC has started to update its own website to work towards compliance with the regulations, so please visit our website to see what we are doing.

Kent Association of Local Councils

Appendix 1

When you may be exempt from accessibility regulations

All UK service providers have a legal obligation to make reasonable adjustments under the Equality Act 2010 or the Disability Discrimination Act 1995 (in Northern Ireland).

But the following organisations are exempt from the 2018 regulations:

- non-government organisations like charities - unless they are mostly financed by public funding, provide services that are essential to the public or aimed at people with a disability
- schools or nurseries - except for the content people need in order to use their services, for example a form that lets you outline school meal preferences
- public sector broadcasters and their subsidiaries

Check with your legal adviser (if you have one) if you're not sure whether the new accessibility rules apply to you.

When complying with accessibility regulations might be a 'disproportionate burden'

Some organisations won't be on the exempt list, but still won't need to fully meet accessibility standards. This is the case if the impact of fully meeting the requirements is too much for an organisation to reasonably cope with. The 2018 regulations call this a 'disproportionate burden'.

You need to think about disproportionate burden in the context of what's reasonable to do right now. If your circumstances change, you'll need to review whether something's still a disproportionate burden.

If you want to declare that making things accessible is a disproportionate burden, you're legally required to carry out an assessment. In your assessment you weigh up, roughly speaking:

the burden that making those things accessible places on your organisation
the benefits of making those things accessible

When making your assessment, you need to think about:
your organisation's size and resources

- the nature of your organisation (for example, do you have services aimed at people who are likely to have a disability?)
- how much making things accessible would cost and the impact that would have on your organisation?
- how much users with a disability would benefit from you making things accessible?

You might judge that the benefits of making some things accessible wouldn't justify the impact on your organisation. In that case, you can claim it wouldn't be reasonable for you to make those things accessible because it's a disproportionate burden. You shouldn't take things like lack of time or knowledge into account in your assessment - or argue that making things accessible is a disproportionate burden because you haven't given it priority.

Example 1

You might be able to argue it's a disproportionate burden to meet all the requirements if doing so would use up most of your organisation's budget for the year and leave you unable to do any of your other work - and wouldn't vastly improve things for users with a disability.

Example 2

A simple code change that improves your website or app's colour contrast is relatively low cost and would improve things for a lot of people with sight impairments. You might not be able to argue that changing this is a disproportionate burden.

You're less likely to be able to claim disproportionate burden for services that:

- are specifically aimed at disabled people, for example 'apply for a blue badge'
- enable people to participate in society, like 'register to vote' or 'find a job'

In many cases you'll need to work out what it is reasonable for you to fix now, and what you'll be able to fix in the future.

If you decide that fixing something would be a disproportionate burden, you'll need to say so in the accessibility statement you publish on your website or mobile app.

There's [guidance to help you or your web team plan and prioritise what you'll fix](#).

Even if you're exempt from the 2018 regulations, or judge that meeting them would be a disproportionate burden, under the Equality Act 2010 or the Disability Discrimination Act 1995 (in Northern Ireland) you're still legally required to make reasonable adjustments for people with disabilities when they're needed - for example, by [providing the information they need in another, more accessible format](#).

Appendix 2

Understanding accessibility

Making a website or mobile app accessible means making sure it can be used by as many people as possible.

This includes those with:

- impaired vision
- motor difficulties
- cognitive impairments or learning disabilities
- deafness or impaired hearing

At least [1 in 5 people in the UK have a long term illness, impairment or disability](#). **Many more have a temporary disability.**

Accessibility means more than putting things online. It means making your content and design clear and simple enough so that most people can use it without needing to adapt it, while supporting those who do need to adapt things.

For example, someone with impaired vision might use a screen reader (software that lets a user navigate a website and 'read out' the content), braille display or screen magnifier. Or someone with motor difficulties might use a special mouse, speech recognition software or on-screen keyboard emulator.

Why is making your public sector website or app accessible important?

People may not have a choice when using a public sector website or app, so it's important they work for everyone. The people who need them the most are often the people who find them hardest to use.

Accessible websites also tend to work better for everyone. For example, they are often faster and easier to use and tend to appear higher in search engine rankings.

Most public sector websites and apps do not currently meet accessibility requirements. For example, a recent study found that [4 in 10 local council homepages failed basic tests for accessibility](#).

Common problems include websites that can't be navigated using a keyboard, inaccessible PDF forms that can't be read out on screen readers, and poor colour contrast that makes text difficult to read - especially for visually impaired people.

You may be breaking the law if your public sector website or app doesn't meet accessibility requirements.

Meeting accessibility requirements

New regulations came into force for public sector bodies on 23 September 2018. They say you must make your website or mobile app more accessible by making it '**perceivable, operable, understandable and robust**'. The full name of the regulations is the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018.

The 2018 regulations build on your existing obligations to people who have a disability under the Equality Act 2010 (or the Disability Discrimination Act 1995 in Northern Ireland). These say that all UK service providers must consider 'reasonable adjustments' for disabled people.

For example, somebody might ask for [information in an alternative, accessible format](#), like large print or an audio recording. There are a number of factors that determine [what makes something a 'reasonable' adjustment](#).

Your website or app will meet the newer legal requirements if you:

- meet the [international WCAG 2.1 AA accessibility standard](#) - although there are [valid legal reasons for not meeting accessibility standards](#)
- publish an accessibility statement that explains how accessible your website or app is

The best way of doing this is firstly to check how far your website or app currently meets WCAG 2.1, and where there are problems. Then, make a plan to fix the problems you've found. Your council should use the [detailed guide to making your website accessible and publishing an accessibility statement](#).

The deadline for meeting the new requirements and the steps you need to take depend on whether you have:

- a new website (published on or after 23 September 2018)
- an existing website
- a mobile app

Who must meet the 2018 accessibility regulations?

All public sector bodies must meet the 2018 requirements, unless they are exempt.

Some organisations might not have to fully meet the requirements if doing so would be a '**disproportionate burden**'. Depending on their resources, these organisations may take some steps towards meeting the requirements now and make further improvements later.

Public sector bodies include:

- central government and local government organisations
- some charities and other non-government organisations

New websites

If you create a new public sector website on or after 23 September 2018, you need to meet accessibility standards and publish an accessibility statement by 23 September 2019. You will then need to review and update your statement regularly.

As well as helping everyone to use your website, thinking about accessibility upfront saves you money and time in the long run. It's cheaper and quicker than fixing problems once something is built.

When you're building a new site, you can choose software and use processes that build accessibility into what you do.

Existing websites

Most existing websites that were published before 23 September 2018 need to comply with the 2018 regulations by 23 September 2020.

You may not have to meet the requirements for your whole website or app if doing so would be a disproportionate burden - for example, if it's very expensive to make even simple changes and those changes would bring very limited benefits to people with a disability.

If you're not sure what would be disproportionate in your situation, talk to your legal adviser.

In some circumstances, you might need to do things earlier than 2020. If you make substantial changes to the code, for example to create new features, or if you create a subdomain with its own distinct codebase, it's likely that these will need to be fully accessible from 23 September 2019 (the same deadline as for new websites).

If you're using an agile approach to redevelop an existing website, you can make accessibility improvements as part of your approach to iteration. This is covered in [guidance on how to approach fixing problems](#).

You are legally responsible for your website meeting accessibility requirements, even if you've outsourced your website to a supplier.

Outsourced websites

If you've outsourced some or all of your website to a supplier, you'll need to work together to make sure your website meets the 2018 regulations.

Start by asking how much it would cost to make [the changes needed to make your website or app accessible](#). You might find that fixing everything at once would put a disproportionate burden on your organisation. Work together with your supplier to agree what it's reasonable to fix now, and when you'll make the remaining changes.

State what your plans are in your accessibility statement to make things as clear as possible for people using your website or app.

When you renew your contract or enter a new one, you should:

- follow [government guidance on procuring technology](#) - awarding contracts that aren't too long and using open standards, for example, makes it easier to take advantage of technical advances that can improve accessibility
- where possible, [use web technologies rather than native mobile apps](#) - because it's easier to update web technologies
- make meeting [accessibility standards in procurement](#) part of the request for quotation (RFQ)
- consider building regular accessibility reviews into the contract
- include accessibility as part of the contract evaluation

The European Commission has published guidance in its [Accessible ICT Procurement Toolkit](#).

Mobile apps

Accessibility requirements apply in the same way as websites for new, existing or outsourced apps, but the deadline for meeting them is 23 June 2021.

How the accessibility regulations will be enforced

The Government Digital Service will be responsible for monitoring that public sector bodies comply with the 2018 accessibility regulations.

The regulations will be enforced by the Equality and Human Rights Commission (in Great Britain) and the Equality Commission for Northern Ireland.

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<https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps> for access to the original UK Government Guidance.