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An In-Depth Examination of the Implementation of the Disability Equality Duty – Executive Summary

A Research Report for the Office for Disability Issues

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The Government's vision is that by 2025 disabled people in Britain should have full opportunities and choices to improve their quality of life, and will be respected and included as equal members of society.

The Office for Disability Issues is here to help deliver that vision. We work to make equality a reality for disabled people by:

- promoting joined-up government to improve the way policy is made and services are delivered
- involving disabled people and their expertise in what we do, and encouraging others to do the same
- being a source of evidence and expertise on disability for the rest of government
- promoting human rights and ensuring effective disability equality legislation
- communicating what is happening across government on disability.

Acknowledgements

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01 Introduction

In 2007 the Office for Disability Issues commissioned this seven-month study to examine the implementation of the Disability Equality Duty (DED) in England. The research was conducted by teams from the universities of Glasgow and Strathclyde.

The full report is available at www.officefordisability.gov.uk

The DED was introduced through the Disability Discrimination Act 2005 and applies to public authorities in England, Wales and Scotland. The limited amount of research to date shows a mixed picture of progress in the implementation of the DED, with both benefits and shortcomings reported. The evidence also shows variations in its interpretation across the public sector.

This new study involved in-depth interviews and focus groups in 35 public authorities, bringing together a series of case studies across seven policy sectors: criminal justice, culture, education, environment, health, housing and transport. Within each sector, a 'Target' authority was the main focus of investigation. Interviews were also conducted in 'Link' organisations, associated with each 'Target' authority in that sector.

The research examined the impact of the DED and how it has influenced outcomes for disabled people. A particular focus was to draw on the experiences of authorities in producing a Disability Equality Scheme (DES) and the extent to which disabled people were involved in that process.

The final report provides examples of good practice to help public authorities in mainstreaming disability equality in their policies and practices. It will also be a useful guide when conducting future reviews of Disability Equality Schemes and Action Plans. The report also describes some of the practical issues that organisations should consider when involving disabled people in developing policy and monitoring progress towards disability equality.

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02 Key Findings

The impact of the Disability Equality Duty (DED) should be seen in the context of wider changes in policy and legislation affecting disabled people in recent years, with some caution being exercised in attributing impact solely to the DED. Nevertheless, the results indicate that a positive change in perceptions of disabled people and disability issues has taken place, at least in most of the organisations in this study.

This change applies to organisations' views of both disabled employees and service users and customers. Disability is now firmly embedded in the equality agenda, which shows there has been a significant shift in attitudes over the past decade.

Some positive impacts of the DED included:

- greater priority being given to disability equality issues within public sector bodies, from being an 'add-on' to 'part of core business'

- improved perceptions of, and increased respect for, disabled colleagues within workplaces and a better understanding of disabled people's support requirements

- an appreciation of the importance of involving people with different types of impairment and those experiencing a range of barriers, leading to an increased rate of declaration of disability by employees in some organisations

- widened engagement with new sections of the disabled population, sometimes leading to their involvement in an organisation's activities and/ or developing a Disability Equality Scheme (DES)

- examples of mainstreaming disability equality in policy making.

There is still considerable variation across and within different sectors regarding aspects of the interpretation and implementation of the DED. While it is important to highlight the positive impacts, it would be misleading to suggest they applied in every sector. Rather, the research has shown that, overall, the focus at this stage was primarily on the process of developing a DES rather than on outcomes.

Few formal monitoring mechanisms were identified. Several organisations were hoping to find more concrete evidence of positive outcomes in future reviews. Similarly, the study found that mainstreaming disability equality and disability proofing were at a relatively early stage in most organisations.

Some felt that arrangements for future regulation and assessment of the DED have not received enough attention by the Equality and Human Rights Commission. Concerns were expressed about a lack of accountability regarding how far and in what ways authorities involved disabled people in developing the DES.

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Looking ahead, several organisations cited the proposed Equality Bill as a concern, especially the risk of disability issues being seen as less important than other equality areas.

2.1 Experiences of Developing Disability Equality Schemes

This part of the research explored themes and issues relating to the development process of Schemes across the policy sectors. It identified key drivers and barriers that emerged from the organisations' experiences and those of disabled people.

Key findings

• Some authorities had adopted a strategic approach to the DED, seeing it as part of their organisational ethos. Others gave it less priority, adopting a piecemeal and ad hoc approach. The approach had implications for producing a DES. Some organisations commenced training and preparation a year in advance of the December 2006 publication deadline; others spent only a few months developing their Scheme.

• Considerable variation existed between authorities in locus of responsibility for the DES. The evidence suggests that effective implementation requires a cross-cutting approach, where the Scheme is championed and supported at senior level and actively promoted and disseminated at lower levels:

"Make sure it's driven from the top … people with disabilities will have a sense that they're more included in the process."

(Environment Target, Equality Officer)

Best Practice Case Study –
Locus of Responsibility

This case study from the health sector illustrates the use of high-level support and multi-level input in implementing the DED.

At primary care trust (PCT) level within the Health Link, the Director of Corporate Services had been given the task of writing the documentation and Action Plan. This had been allocated to them mainly because of their previous experience in working in equalities planning. Conversely, in the Health Target two people were charged with implementing the DED: the Deputy Director for Human Resources and the Head of Nursing. From these roles, responsibility was divided between the DED's impact on staffing (Human Resources) and patients and/or services (Nursing). Another member of staff was also heavily involved in the Health Target's DED planning process because of their awareness and interest in people with learning disabilities. This was clearly a good example of breadth within a top-down model, though there was recognition that bottom-up pressure, in the form of involvement of disabled people, would also be required.

- Several organisations successfully employed external consultants to help develop their DES, for example by coordinating the involvement of disabled people or gathering evidence. This was not always unproblematic; for example where analysis of secondary information sources was used as the sole means of collecting data.
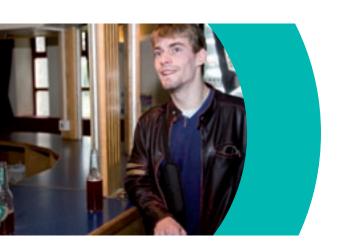
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- Authorities with an inclusive ethos or history of involving disabled people had an advantage. Some organisations reported that progress was hampered by competing priorities and agendas or restructuring. Budgetary concerns were a further obstacle, with a few organisations stating they would have welcomed additional funding to implement their DES:

"The amount of resource that we can allocate to it is a constraint … it's not just for disability equalities, we've got all the other … equality and diversity agendas as well."

(Health Target, Senior Manager)

- The need was stressed for information, guidance and support throughout the process. While some authorities were satisfied with the support available, others felt there had been insufficient support. All except one authority had found the Disability Rights Commission (DRC) to be very helpful. Much concern was expressed about the loss of expertise and established working relationships following its replacement by the Equalities and Human Rights Commission (EHRC) in October 2007.

- Some bodies felt they had insufficient time to develop the DES. This was linked to lack of designated staff, the time-consuming nature of involving disabled people and internal organisational issues.

Best Practice Case Study – Pointing the Way

This case study from the environment sector illustrates the involvement of local organisations and the benefits of training.

A 'Link' organisation in the environment stream commented that disability was its strongest area within equality and diversity. The organisation had established relationships with disability organisations that promoted rights for disabled access to the environment, and belonged to a countryside access group, which included disabled representatives, for example, producing joint guidance. Other areas within the equality and diversity focus, particularly Black and Ethnic Minority communities, were new to the organisation and were not represented in the staff group so more difficulty was experienced in addressing other diversity issues:

... the standards and structure for disability has been built into what we do.

(Environment Link)

Some of the work carried out by the Environment Link relating to disability included building substantial accessible facilities. This is important because it shows that the organisation is focusing on the outcomes rather than just the processes. Although post-consultation revealed that some of the materials used in building were not the most suitable for wheelchair access, some progress had been made in terms of promoting access across other impairment groups. For example, the organisation had volunteer British Sign Language interpreters and some staff had participated in sign language training. In addition, joint bids with disability organisations for work with specific groups of disabled people were being submitted and trails were being adapted for use in more active sports (such as downhill track) by disabled people who used wheelchairs.

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2.2 Involving Disabled People

Some public bodies have involved disabled people in their responses to the DED more than others: some have not included them at all or had only limited consultations with them; others have had creative and effective involvement with disabled people, going beyond the requirements into sustained involvement.

"That's one of the things that we're very pleased about, the fact that we … could be absolutely clear and honest and say, it was disabled people that set the priorities … they weren't set in isolation and then pushed down."

(Communities Target, Equality Officer)

Key Findings

- Approaches to involving disabled people in developing the DES varied greatly between Target Organisations. Some – including those in the transport, criminal justice, communities, culture and education sectors – had made significant efforts to involve disabled employees and/or service users. Those in other sectors admitted that less had been done to involve disabled people.

- One Link Organisation (within the communities sector) had surveyed all staff. In addition, three organisations (in the communities, education and criminal justice sectors) had conducted large scale surveys, which aimed to reach as many service users as possible.

- Creative ways of involving disabled people included running a stall at a national aids and equipment exhibition, a mystery shopping exercise, commissioning work by disabled artists and inviting debates and ideas online.

- Only four Target authorities had involved disability-led organisations. Another consulted just one small and unrepresentative group of service users. Two Target Organisations reported involving a number of disability-led organisations, some of whom told us they had not been involved. It seems that the definition of 'involvement' used by Target Organisations was in some cases much looser than that used by disability-led organisations.

- Authorities with little or no involvement of disabled people attributed this to short deadlines, organisational restructuring and in one case a perception of the DED as little more than a bureaucratic requirement. However, disabled people cited the following reasons: organisational resistance to engaging with disabled people, failure to produce information in accessible formats, restricted circulation of working drafts and relying on consultants rather than seeking the views of disabled people. Some disabled people were concerned that the DES as published did not reflect their contribution:

"If we don't see the information and paperwork we can't advise and say 'this is what the things are'."

(Health Link, Disability-led Organisation)

- In some cases, notably within the culture sector, relationships between disabled people and public authorities had initially suffered, apparently as a result of poor communication or misunderstandings. Yet as the following case study illustrates, showing flexibility and innovation in involvement methods can pay dividends.

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Best Practice Case Study – Cultural Unity

This case study from the culture sector illustrates the use of joined up governance and involving local groups of disabled people.

User involvement in the culture sector initially proved difficult but this example shows how arrangements can be adapted to bring about more constructive and sustainable involvement. Collaboration in the Culture Target drew on its extensive network of disabled artists to initiate the first phase of its response to the DED. This collaboration pre-dated the DED and was fairly unsuccessful, resulting in friction between artists and the Target. This was followed with a survey and focus groups with disabled people (non-artists). The Target then generated a second phase of involvement as it placed a duty on regional offices to complete their own consultations with disabled people and produce their own Action Plan based on the ideas of local groups of disabled people. Indeed, this second phase was more successful in hearing a fuller range of disabled people (artists, disability-led organisations, venues and service users) and in sustaining involvement. This demonstrates that collaboration within sectors can take time and perseverance to yield successful results.

- Involving disabled people should be a sustained activity and these are still early days in terms of assessing sustained involvement. Sustained involvement is not necessarily about making plans for future meetings, but about ensuring that organisations go beyond consultation by giving contributors the chance to hear and respond to feedback. Those authorities reporting success in this regard viewed disabled people as experts whose knowledge and experience was valuable to the organisation. They were given regular feedback and had a sense of ownership of the DES.

- Sustaining involvement proved more difficult where there was a rapid turnover of customers or staff, staff shortages or uncertainty about future funding or direction. There was also a risk of disabled people becoming 'burnt out' if too many demands were made. One solution generated by a link to the Communities Target was to rotate activities around sub-groups.

- Several organisations reported that the DES process had helped identify groups of disabled people, or issues affecting certain groups, previously overlooked. A good example of this, in the Criminal Justice Target, was a heightened awareness of mental health issues. One member of the Working Group with mental ill-health spoke of the positive experience in being able to 'represent the silent minority'.

Best Practice Case Study –
Collaborative Working

This case study from the criminal justice sector illustrates the use of multi-level input in developing a DES and establishing a clear remit for the groups involved.

The Criminal Justice Target advertised among its staff for volunteers to join a Disability Working Group, which was supported by a long-standing Disability Action Group (DAG). The Disability Working Group reported to DAG which, in turn, reported to a Trust and Confidence Board. A Diversity Officer from a national charity which worked with employers, social services and disabled people to help disabled people find employment reported that she was part of the Disability Working Group and had 'a lot of involvement' in developing the DES. As a result the Working Group represented a diverse range of staff members, and this allowed, first, useful and informed collaboration in meetings and, second, for meeting agendas to inform work practice outside of meetings. For example, as a result of meeting other members of the Working Group, a few members reported feeling more valued by the organisation, and more confident in fulfilling their duties, demonstrated by them promoting the Group to others.

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2.3 Mainstreaming Disability Equality and the Impact on Working Practice

The research explored organisational change brought about by the DED and the challenges faced in mainstreaming equality issues in relation to decision making, policy and planning.

Key Findings

- Mainstreaming disability equality has been partly achieved in some organisations while others have a long way to go.

- Useful initiatives that helped promote mainstreaming included appointing local Disability Champions and intra-agency regional groups whose members acted as DED ambassadors in their own agencies.

- Mainstreaming was more problematic where responsibility for co-ordinating Equality Impact Assessments was unallocated, where information about disability equality (for example, numbers of disabled staff) was poor and where there was indifference or even resistance from some non-disabled staff.

Best Practice Case Study –
Mystery Shopping

This case study from the education sector illustrates best practice in accessibility and leading by example through recruitment policy.

One of the Education Targets had published its DES in different formats to improve accessibility. For example, some of its online publications were targeted at teenagers (though were available to anyone interested) and had addressed some physical access issues to facilitate focus groups and employees to meet.

It had also ensured that recruitment procedures were simplified after a mystery shopping exercise had revealed barriers. In addition practice had been changed to make sure that all employment opportunities were accessible to disabled people and advertised through disability-led networks.

The DED had prompted authorities to organise a range of training opportunities including diversity training, disability equality training and courses about Equality Impact Assessments and Access Audits. Limited evidence emerged of the impact of training but some organisations, such as the Health Target, had used a self-advocacy organisation to provide relevant training.

Two main types of knowledge gathering and awareness raising were under way in most authorities – dissemination of existing information about disability equality activities and generation of new knowledge intended to identify and address gaps in provision.

Monitoring and evaluation of authorities' progress in developing a DES was at a relatively low level and some organisations reported disappointment that this was the case. There was little evidence of any external monitoring following the closure of the Disability Rights Commission (DRC). Within sectors, Target Organisations which are not direct service providers but have a strategic role in relation to other agencies could play a more active part.

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There were mixed views about the financial impact of meeting the DED, including the production of a DES. For example, the Transport Target found it difficult to resource staff training and the Culture Target reserved actions that required resourcing to the second and third years of their Action Plans.

2.4 The Influence of the Disability Equality Duty

The Disability Equality Duty has changed the way many organisations have approached disability equality and has had a significant influence on the public sector.

Key Findings

- The DED had demonstrably changed the approach to disability equality of some of the organisations researched by shifting attention from technical and access issues to a focus on broader equality issues. By placing a much greater emphasis on the involvement of disabled people through the development of a DES, the Duty has also had a significant impact on the way in which organisations engage with disabled people:

"There used to be a lack of knowledge and understanding of disability; but once staff see disabled colleagues working effectively and contributing positively, attitudes change and commitment to the Disability Equality Scheme grows."

(Criminal Justice Target, Equality Officer)

- Views were also expressed that the requirements of the Duty, including the production of Disability Equality Schemes, Action Plans and Equality Impact Assessments, actually strengthened the impact of the legislation.

- Despite this, many organisations had difficulty pinpointing specific evidence of changes in practice and policy. There was some evidence that conditions had improved for disabled people in some of the organisations examined. Overall however, the focus at this stage appears to be more on process than outcomes.

- Many disabled individuals and disability organisations have contributed to the DES process with energy and commitment. Those organisations which were most successful in involving disabled people not only showed a commitment to and understanding of the principles behind the DED, but also provided sufficient resources, were flexible and clear about what they hoped to gain from it and set out comprehensive boundaries and parameters.

- Best practice also focuses on sustaining involvement. This can be achieved where a disability steering group is embedded as part of the organisation's committee cycle and a two-way relationship is established with senior staff, for example, managers attending steering group meetings. People must feel their contributions are valued and reflected in the published DES and Action Plans.

- Where possible the organisation should aim to base its DES on a good understanding of staff and service users' needs. How this is done is not prescribed, but this research points to some good practice. While not a requirement, larger organisations may have problems reaching and involving all staff, whereas smaller organisations could encounter problems allocating sufficient time to manage such involvement. The opportunity for involvement should be fully advertised, with information provided in accessible formats and training made available.

- Most schemes had a stronger focus on either staff or (less often) customers and service users. At this stage, few succeeded in addressing the needs of both groups to the same extent. This might represent a partial response to the Duty, which does set out a requirement to involve both service users and staff in developing the DES.

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"I just think it's a good opportunity to talk to people like
Radiographers who perhaps wouldn't have any exposure to
people with learning difficulties and listening to them speak
… it kind of removes the stereotypes, fear factors."

(Health Link, Organisation of Disabled People)

Best Practice Case Study –
Rewarding Training

This case study from the health sector illustrates the use of training to promote awareness of disability issues.

The Health Target's Human Resources Department requested that formal recognition of disability issues were included as part of the Customer Care Programme. Participation in the four-hour training session had therefore become compulsory for all new and existing staff. This was considered to be an important step in highlighting disability awareness among staff and had been received positively:

The staff eagerness to learn had been phenomenal actually ... there's been an awful lot of improvement in people's attitudes.

(Health Target, nursing staff)

One of those interviewed at the Health Target had found that changing attitudes of staff had been apparent from the different type of complaints received from patients through her section. Overall, these had highlighted more positive feedback about staff when in contact with disabled people. Two additional training sessions were also conducted by a regional organisation for disabled people, led by persons with learning disabilities, alongside five or six other training sessions discussing disability issues over a two-year period at the Health Target. This helped to challenge stereotypes and raise awareness among different groups of staff.

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03 Guide to Best Practice

Many of the organisations that took part in this study have changed policies and practices to support disabled staff and service users for the better. The following guide summarises best practice in 10 key areas.

1. Commitment and resources

The findings in this study suggest that those organisations which were most successful in involving disabled people were those that not only showed a commitment to and understanding of the principles behind the DED, but also resourced the policy, were flexible and were clear about the remit and parameters of involvement.

2. High-level support and multi-level input

In developing a Disability Equality Scheme, high-level support from senior management was identified as a key driver in several organisations. Effective implementation occurred when this approach was combined with input at different levels of the organisation.

3. Using a range of involvement methods

Best practice was illustrated by the use of a full range of involvement methods, including the participation of disabled people at different levels and using a range of recruitment methods to engage with disabled people.

4. Ownership and clear remit

Disabled people need ownership of Schemes and Action Plans and to be able to recognise their involvement in published documents. Expectations need to be managed by defining and establishing the relationship between the organisation and steering group(s).

5. Joined-up governance

Joined-up governance between national and regional offices was also identified as best practice to ensure that nationally developed Schemes can be implemented at sub-national level.

6. Involving locally and recognising expertise

Using local organisations of and for disabled people was found by many to be the best way to recruit disabled participants and to get information on local issues. Where local groups are used, best practice involves paying them a consultancy rate and recognising the demands placed on them.

7. Raising awareness

Best practice was also achieved by ensuring that as many staff, customers and service users as possible were aware of the Scheme and its development, for example through websites, training, staff surveys or exhibitions.

8. Training

Meaningful involvement is enhanced where training has been available to disabled people. This is best practice not only because it optimises contributions, but because it is seen as an investment in the group, allowing members to perceive themselves as experts; these factors work together to help sustain involvement.

9. Providing accessible information

If disabled people are to be involved and to feel valued it is essential that the organisation provides information in accessible formats. This includes not just large print or Braille and the use of British Sign Language but a range of other activities such as Palantype stenography, the use of easy read and other pictorial methods, and seeking innovative ways of holding meetings.

10. Leading by example

Some of the organisations interviewed had been exemplary in carrying out particular aspects of their own policies, for example in employing disabled people and supporting those with specific impairments, especially mental health.

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04 Context of the Research

The Disability Equality Duty (DED) was introduced through the Disability Discrimination Act 2005, applying to more than 45,000 public authorities in England, Wales and Scotland. It transformed the responsibilities of public authorities first set out in the Disability Discrimination Act 1995, from making reasonable adjustments for individuals to a much wider duty to identify and tackle disabling barriers affecting groups of people.

The DED comprises a general duty and specific duties. The general duty requires public authorities to carry out their functions with due regard to the need to promote equality between disabled and non-disabled people. The specific duties require public authorities to publish a Disability Equality Scheme (DES) setting out how they intend to fulfil their general duty and specific duties. In addition, certain Secretaries of State must publish an overarching report for their policy sectors every three years, the first to be published in December 2008.

A Disability Equality Scheme must include information about how disabled people were involved in its development, an Action Plan, and arrangements for monitoring and assessing impact. Most public authorities were required to publish their DES by December 2006. A Code of Practice[1] to assist authorities with implementing the Duty was published by the then Disability Rights Commission.

The aims of this study were to:

- examine how public bodies are implementing the DED and how the DES is influencing current working practices

- document experiences of developing a DES, including best practice

- examine the role of disabled people in developing the DES

- investigate the contribution made by the DES to organisational change and improved outcomes for disabled people

- explore how authorities are mainstreaming DED activity and the impact the legislation is having on the wider culture

- give an overview of progress towards disability equality

- recommend future action by public authorities.

[1] Code of Practice in England and Wales, Disability Rights Commission
http://www.dotheduty.org/

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05 Research Methods

This study involved a series of case studies in 35 public authorities across seven policy sectors. Each of these sectors has a ministerial lead through the relevant government department:

- criminal justice (Home Office/Ministry of Justice)
- housing (Communities and Local Government)
- culture (Department for Culture, Media and Sport)
- health (Department of Health)
- environment (Department for Environment, Food and Rural Affairs)
- transport (Department for Transport)
- education (Department for Children, Schools and Families).

Within each sector, a 'Target' public authority was the main focus of investigation. Interviews were conducted with equality officers (or equivalent) and senior managers, while focus groups or one-to-one interviews took place with disabled employees, customers and service users. To understand the impact of the DED on the wider sector, interviews were also conducted with a staff member in up to three 'Link' organisations associated with each 'Target' authority in that sector.

Interviews and focus groups were structured, covering:

• preparing a Disability Equality Scheme

• involving disabled people

• implementing the Disability Equality Scheme

• outcomes.

The interview schedules and focus group topic guides are available in the full report at www.officefordisability.gov.uk.

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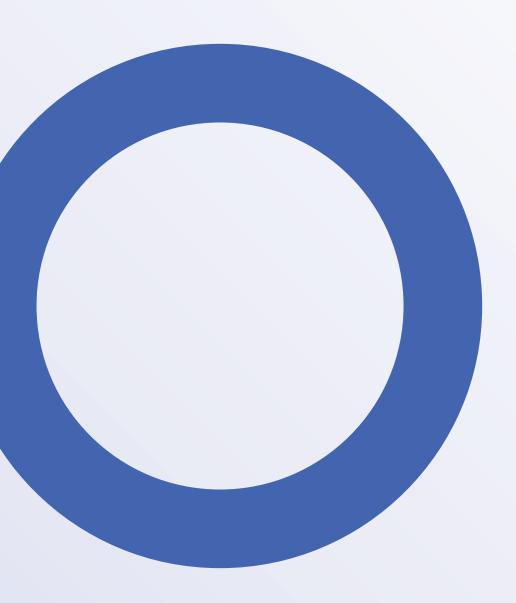
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