

TOWARDS INCLUSION – CIVIL RIGHTS FOR DISABLED PEOPLE

1 PURPOSE

- 1.1 This report brings to Members' attention a consultation paper which has been published as the Government's response to the Disability Rights Task Force. Responses to the consultation paper are required by 22nd June. Hence, subject to the views of the Members of this Sub Committee this evening, urgency powers will be sought to ensure that the Council's views are submitted by the deadline.

2 INTRODUCTION

- 2.1 The Disability Rights Task Force was established in 1997 and in 1999 published its final report, "From Exclusion to Inclusion". The report now published represents the Government's response to a number of the recommendations contained in that report, particularly in relation to Employment, but also access to goods, services and facilities. The key proposals are outlined below, together with any officer comments in italics.

3 ISSUES FOR THE COUNCIL AS AN EMPLOYER

- 3.1 In the consultation response, the Government is proposing to:
- Widen the definition of disability to include HIV infection and cancer from the time they are diagnosed.

In practice no real affect – the Council would not currently treat these groups differently.

- Require training to be provided to staff in disability issues.

Further general and specific disability awareness training would need to be included in the Council's corporate training plan.

- Require that people with a disability are protected from harassment in employment.

The Council have covered harassment on the grounds of disability in its new Harassment Policy.

- Protect elected Members of district councils from discrimination on the grounds of disability.
- Allow a claim of disability discrimination during employment to be heard up to six months after the employment has ended.
- Lay a duty on local authorities to promote equalisation of opportunities for disabled people – authorities may be expected to ensure compliance amongst its contractors and suppliers. This proposal is to be subject to separate consultation.

Tendering and contract letting procedures would need to be reviewed and a compliance testing methodology put in place in terms of purchasing and contracted services.

- Local authorities may be “allowed” to take positive action by interviewing **only** disabled people who apply and can meet the relevant competencies without interviewing non-disabled applicants.

This would provide legal protection for the Council if it chose to exercise positive action. However, the Council already employs a higher percentage of staff declaring that they meet the Disability Discrimination Act disability definition compared with the percentage of economically active disabled people in the Authority’s area (7.5% as opposed to 4%)

- Introduce powers for Employment Tribunal to order re-instatement or re-engagement in cases of unfair dismissal on the grounds of disability discrimination.

This would ensure consistency for sex, race and disability discrimination.

- Change the burden of proof in cases of unfair dismissal to the employer who will have to show that they did not discriminate.

Very cautious handling would be required when dismissing any member of staff who is or may be covered by the definition (as extended) of disability.

- Introduce good practice advice on pro-actively anticipating the need for adjustments to be made (access/duties/equipment, etc.) to employ people with a disability.

Advice on this subject would be welcome.

3.2 ISSUES FOR THE COUNCIL AS A PROVIDER OF GOODS, SERVICES AND FACILITIES

- A new British Standards on access for disabled people, both externally and internally, BS 8300 is being prepared.

A new code would be welcomed

- Discrimination is already unlawful where public authorities are providing services to members of the public. The Government is considering extending the Disability Discrimination Act to the actions of public authorities where they are exercising other public functions.

It is not clear what areas of extension are envisaged but if there is a general power then this may impact on the tendering and contracting procedures of the authority, for example

- Extension to those who let or manage premises duties relating to reasonable adjustments to policies, practices and procedures in respect of people with disabilities, For example, not to unreasonably withhold the provision of auxiliary aids and services to premises to facilitate disabled usage.

This should not represent a particular issue for the Authority.

4 OVERALL COMMENTS

- 4.1 The implementation of the Disability Discrimination Act clearly has resource implications. This has been recognised by the Council which has already made provision within the capital programme to take matters forward. The majority of the proposals now coming forward should not represent any significant issues for the Authority; however, there are some matters which Members may wish to comment upon. For example, the Regional Employers Panel, in considering its response to the consultation paper, felt that the suggestion that authorities should be allowed to “appoint from a shortlist made up exclusively of disabled applicants” could create problems. The proposed shift in the burden of proof in cases of unfair dismissal also raises concerns, as does the extension of the Act to public authorities where they are exercising other public functions, given the lack of specific examples in this area.

5 RESOURCE IMPLICATIONS

- 5.1 The Council has already made provision within the Capital Programme to facilitate access to its buildings as a result of the implications of the Disability Discrimination Act.

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- 5.2 The proposals now coming forward contain no indication of costings and if and when they are worked up into more detailed proposals, then further work should be possible in identifying any probable costs.

6 LEGAL IMPLICATIONS

- 6.1 The employment provisions of the Disability Discrimination Act 1995 came into effect in 1996. The Goods and Service provisions of the Act are being phased in and will be implemented in full by October 2004. The proposals now coming forward represent a development of that legislation.

7 RECOMMENDATION

- 7.1 That this Sub-Committee determines its comments in respect of the consultation document. (CEX)

Paul Warren

Chief Executive

Background Papers:

DfEE publication – Government Response to the Disability Rights Task Force.

For further information please contact Paul Warren on:-

Tel:- 01702 318199
E-Mail:- paul.warren@rochford.gov.uk