

Cabinet – 20th April 2005

Equality Legislation and the Approach to Statutory Equality Plans

Report of the Director of Law and Property

1. Purpose

- 1.1 To update the Cabinet on developments relating to equality legislation and to agree the approach to the preparation of statutory equality documents.

2. Background

- 2.1 The Government is moving ahead with plans to extend and, in time, to rationalise, equality legislation. This will have a significant impact on the Council's approach to equality and diversity issues and have implications for the current review of its Race Equality Scheme.

Disability Discrimination Bill

- 2.2 The Disability Discrimination Act 1995 will be amended by a new Disability Discrimination Act which will place a duty on all public authorities to promote disability equality. This will come into force probably around December 2006. The general approach laid out in the Disability Discrimination Bill is to move public authorities away from the current requirements to make reasonable adjustments to meet the needs of disabled people to one where a public authority's policies and services are designed from the start to meet disabled people's needs, although recognising that retrospective action may still be required to bring an authority's existing policies and services up to scratch.
- 2.3 The general duties on public authorities, set out in Section 49A of the Bill, state that:
- Every public authority shall in carrying out its functions have due regard to:
- the need to eliminate discrimination that is unlawful under the Act
 - the need to eliminate harassment that is unlawful under the Act
 - the need to promote equality of opportunity between disabled persons and other persons; and
 - the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons.

- 2.4 The general duty is therefore not a passive one of merely avoiding discrimination, but requires active promotion of equality which may require additional steps to be taken to ensure that disabled people can participate on an equal basis with non-disabled people.
- 2.5 The Bill also contains provisions for specific duties which will require public authorities to prepare a Disability Equality Scheme, similar to the existing duties under the race relations legislation for the preparation of a Race Equality Scheme.

Equality Bill

- 2.6 On 3rd March 2005, the Government announced details of a new Equality Bill whose purpose is to:
- establish the Commission for Equality and Human Rights (CEHR), to replace the separate Commission for Racial Equality (CRE), the Disability Rights Commission and the Equal Opportunities Commission, and to define its purpose and functions;
 - make unlawful discrimination on the grounds of religion or belief in the provision of goods, facilities, services, premises, education and the exercise of public functions (subject to certain exemptions);
 - create a duty on public authorities to promote equality of opportunity between men and women and to prohibit sex discrimination in the exercise of public functions.
- 2.7 The CEHR will be established in October 2007 for all areas except those for which the CRE is responsible. These will remain with the CRE until April 2009 when they will transfer to the CEHR.

Equalities Review

- 2.8 In February 2005, the Government announced an equalities review, to be chaired by Trevor Phillips, chair of the CRE, to report to the Prime Minister by the summer of 2006. This will:
- investigate the social, economic, cultural and other factors that limit or deny people the opportunity to make the best of their abilities;
 - provide an understanding of the long term and underlying causes of disadvantage that need to be addressed by public policy;
 - make practical recommendations on key policy priorities for: the Government and public sector; employers and trade unions; civic society and the voluntary sector; and
 - inform both the modernisation of equality legislation, towards a Single Equality Act; and the development of the new CEHR.

- 2.9 Working in parallel with this equalities review will be a Discrimination Law Review led by the Department of Trade and Industry which will begin work on the development of a simpler, fairer legal framework.

Integration of Statutory Equality Planning Requirements

- 2.10 The moves towards the rationalisation of equality law are to be welcomed given the complexity and inconsistency of current legislation. The current legislation requires a review of aspects of the Council's Race Equality Scheme by 31st May 2005. This review is currently under way through the officers' Equality and Diversity Advisory Group. It is proposed to publish a revised scheme by 31st May 2005 to meet the legal requirements although this will be subject to any amendments to be made by the Cabinet at its next appropriate meeting.
- 2.11 In order to assist the Council in having an integrated response to implementing its Equality and Diversity Policy and in anticipation of the proposed future legislation, it is proposed to work towards the publishing of a generic Equality Scheme. This will incorporate the Race Equality Scheme and the proposed Disability Equality Scheme, taking on board the anticipated duties covering sex and religion and belief, and be prepared along the timescales to be announced for production of the Disability Equality Scheme. The production of an Equality Scheme will also allow a much clearer relationship with the requirements of the Equality Standard for Local Government, the national self-assessment and improvement framework for equality work. As far as allowed by the legislation, it is proposed to integrate the Scheme with the wider Council planning cycle so that the Scheme can be produced and approved at a time to meet the Council's needs rather than be governed solely by meeting dates set by law.
- 2.12 The implication for the current revision of the Race Equality Scheme is therefore that this be treated as an interim review, pending the production of an Equality Scheme in around 18 months time, rather than leading to the publication of a new three year scheme.

3. Proposals

- 3.1 That the current proposals for the extension and review of equality legislation be noted.

- 3.2 That the approach to the review of the Race Equality Scheme and the proposal to produce a generic Equality Scheme as set out in paragraphs 2.10 to 2.12 be approved.
- 3.3 That the Director of Law and Property, in consultation with Councillor Shakespeare, be authorised to approve the revised Race Equality Scheme for publication by 31st May 2005.

4. Finance

- 4.1 Any additional costs associated with implementing the new legislation will need to be assessed in due course.

5. Law

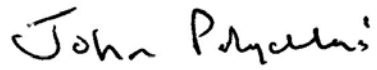
- 5.1 The Race Relations (Amendment) Act 2000 replaces Section 71 of the Race Relations Act 1976 with a new general duty on public authorities to work towards the elimination of unlawful discrimination and promote equality of opportunity and good relations between persons of different racial groups.
- 5.2 The Disability Discrimination Act 1995 makes it unlawful to discriminate against disabled people in connection with employment, the provision of goods, facilities and services, and the disposal or management of premises.
- 5.3 The Sex Discrimination Act 1975 renders unlawful certain kinds of sex discrimination. In particular, Section 25 makes it unlawful for the Council in providing facilities or services (such as those arising pursuant to the statutory functions of the Council) to discriminate against any person seeking to obtain or use those facilities or services on the grounds of gender.
- 5.4 Under Section 111 of the Local Government Act 1972, the Council is empowered to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of its functions.

6. Equal Opportunities

- 6.1 The report contains an update on proposed future equality legislation which will need to be reflected in the Council's Equality and Diversity Policy.

7. Recommendation

- 7.1 That the proposals set out in paragraphs 3.1 to 3.3 be approved.



Director of Law and Property

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