

**Select Committee on Regeneration, Culture and Adult Education – 10<sup>th</sup> September 2007**

**Report of the Chief Executive**

**Disabled Employees and the Personal Data Audit**

**Purpose of Report**

1. To respond to the Select Committee's request for more information about how 'disability' is defined and on the results of the personal data audit.

**Background**

2. At the Select Committee's last meeting, it requested a report on the outcome of the personal data audit of employees across the Council in relation to disability and clarification of the definition used.

**Definition**

3. The statutory definition of disability is provided by the Disability Discrimination Act 1995 (as amended). The full definition is several pages long but in summary it says you are disabled if you have a mental or physical impairment, and:
  - this has an adverse effect on your ability to carry out normal day-to-day activities,
  - the adverse effect is substantial, and
  - the adverse effect is long-term (meaning it has lasted for 12 months, or is likely to last for more than 12 months or for the rest of your life).
4. A leaflet giving more information about the statutory definition was issued to all employees with the personal data audit forms (see attached) and this was the definition used for the audit. Employees were also advised: 'It is very important that you declare your disability if you wish to have the protection of the law. If this is the first time you have declared to the Council that you have a disability, it may be beneficial to you to discuss any personal needs that you may have with your line manager.'
5. The statutory definition is not the only definition of disability that is used but it is the one that defines which conditions currently receive protection under the law, both in terms of employment and in the provision of services and premises, and

so was appropriate for the audit. The statutory definition can be criticised as it focuses on an individual's physical or mental condition, emphasising what they can't do, and is related to the 'medical model of disability'. This, through focusing on the impairment, regards disability as something to be treated and disabled people being in need of a cure.

6. It should be noted that the Council in its Equality and Diversity Policy has adopted the 'social model of disability'. This focuses instead on the environment, both cultural and physical, in which people live and work. People are 'disabled' by barriers which may be physical, such as steps, poor lighting or lack of a hearing loop which might prevent some people from using a building and the services or facilities provided there, or by attitudes, such as an assumption that someone who is visually impaired or has had mental health problems will not be able to do a particular job and so they are not granted a job interview or appointed to a post. Barriers are removed through, for example, on the physical side, good building design and improving older buildings and, on the cultural or attitudinal side, through appropriate recruitment policies and practices, and disability awareness training.

#### **Personal Data Audit**

7. The purpose of the personal data audit was to update employees' records on the new PSE, personnel and payroll system and to collect some data for the first time. A particular aspiration for the audit was to increase the number of disabled employees in the workforce who had actually indicated that they had a disability. The table below demonstrates the effect of the audit in increasing this number, showing the situation before the audit was commenced (September 2006) and once the audit returns had been fully entered on to the PSE system (August 2007).

#### **Dudley Council disabled employees pre- and post-personal data audit**

Directorate	September 2006		August 2007	
	No.	%	No.	%
Adult, Community and Housing	44	1.3	95	2.9
Chief Executive's	12	2.9	22	5.4
Children's Services Head office	11	0.6	47	2.4
Children's Services Schools	6	0.1	56	0.8
Finance	8	1.3	14	2.2
Law and Property	5	2.4	10	4.4
Urban Environment	31	1.8	58	3.4
<b>Total</b>	<b>117</b>	<b>0.8</b>	<b>302</b>	<b>2.0</b>

All directorates achieved a significant increase in the number of employees

indicating that they have a disability, with the overall proportion rising from 0.8% to 2.0% of the workforce. The proportion in schools, despite an eightfold increase, remains low and out of phase with the rest of the Council's workforce. Taking schools out of the equation, the overall proportion stands at 3.1%.

8. Comparative data is presented to the select committee in the annual review of equality and diversity (see separate report). The Council's figures have not compared well with many other local authorities in the past. The situation post-audit is much improved but the figure is still below the metropolitan authorities' average.

### **Finance**

9. There are no financial implications in noting the report.

### **Law**

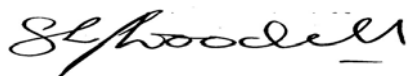
6. The Disability Discrimination Act 1995 makes it unlawful to discriminate against disabled people in connection with employment, the provision of goods, facilities and services and the disposal or management of premises. The Disability Discrimination Act 2005 has extended this Act with a duty on public authorities to promote disability equality.

### **Equality Impact**

7. The report looks at data which is available for assessing the impact of the Council's recruitment and retention policies on disabled employees. There are no particular issues relating to children and young people.

### **Recommendation**

8. It is recommended that the Select Committee notes the information in the report on the definition of disability and the outcome of the personal data audit.



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### **List of Background Papers**

Personal data audit letter and form

## What counts as a disability according to the law?

The Disability Discrimination Act (DDA) protects disabled people. It sets out the circumstances in which a person is "disabled" and says you are disabled if you have a mental or physical impairment, and

- this has an adverse effect on your ability to carry out normal day-to-day activities
- the adverse effect is substantial, and
- the adverse effect is long-term (meaning it has lasted for 12 months, or is likely to last for more than 12 months or for the rest of your life).

There are some special provisions, for example:

- if your impairment has substantially affected your ability to carry out normal day-to-day activities, but doesn't any more, it will still be counted as having that effect if it is likely to do so again
- if you have a progressive condition and it will substantially affect your ability to carry out normal day-to-day activities in the future, you will be regarded as having an impairment which has a substantial adverse effect from the moment the condition has some effect on your ability to carry out normal day-to-day activities.

- cancer, HIV infection and multiple sclerosis are covered effectively from the point of diagnosis
- people who have had a disability in the past but are no longer disabled are covered by certain parts of the DDA.

## What are 'normal day-to-day activities'?

At least one of these areas must be substantially affected:

- mobility
- manual dexterity
- physical co-ordination
- continence
- ability to lift, carry or move everyday objects
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand
- understanding of the risk of physical danger.

It's really important to think about the effect of your impairment without treatment. The Act says that any treatment or correction should not be taken into account, including medical treatment or the use of a prosthesis or other aid (for example, a hearing aid). The only things which are taken into account are glasses or contact lenses. The important thing is to work out exactly how your impairment affects you. Remember to concentrate on what you

can't do, or find difficult, rather than what you can do. For example, if, as a result of a hearing impairment, you experience difficulty hearing someone talking at a sound level which is normal for everyday conversations in a moderately noisy place, it would be reasonable to regard this as having a substantial adverse effect. Being unable to hold a conversation in a very noisy place such as a factory floor would not. If your impairment affects your mobility, being unable to travel a short journey as a passenger in a vehicle would reasonably be regarded as having a substantial adverse effect. So would only being able to walk slowly or with unsteady or jerky movements. But experiencing some minor discomfort as a result of walking without help for about 1.5 kilometres or a mile would not.

## What does not count as a disability?

Certain conditions are not considered impairments under the DDA:

- lifestyle choices such as tattoos and non-medical piercings
- tendency to steal, set fires, and physical or sexual abuse of others
- exhibitionism and voyeurism
- hayfever, if it doesn't aggravate the effects of an existing condition
- addiction to or a dependency on alcohol, nicotine or any other substance, other than the substance being medically prescribed.

Source: Disability Rights Commission  
Website [www.drc-gb.org.uk](http://www.drc-gb.org.uk)

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disability according  
to the law?**



**To request an electronic  
copy of the leaflet, or other  
format, call (01384) 814719**