

THE EQUALITY ACT 2010
WDA/01/11

Recommendation

That:

1. Members are asked to note the report; and
2. Members are asked to delegate powers of the Authority to the Director to update and approve relevant HR Policies and Procedures in relation to the new Equality Act, where there are no substantive changes to existing policy.

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Report of the Director

1. Purpose of the Report

To inform Members of the key employment implications in relation to the introduction of The Equality Act 2010 and to seek delegated powers of the Authority to the Director to update and approve relevant HR Policies and Procedures in relation to the new Equality Act where there are no substantive changes to existing policy.

2. Background

- 2.1 At its meeting on 25th September 2009 the Authority approved an Equality and Diversity Policy.
- 2.2 The Policy provided a way of working within the Authority that makes the mainstreaming of equality into service delivery and employment a key factor for all aspects of the Authority's work.
- 2.3 Based on the Equality Framework for Local Government, the Policy details the systematic approach the Authority should adopt to ensure that set targets and outcomes in relation to equality issues are appropriate and relevant to the needs of the organisation.
- 2.4 The Policy covered all areas of current equality legislation in relation to age, disability, gender, race, religion/belief and sexual orientation.
- 2.5 The new Equality Act harmonises and replaces previous legislation (such as the Race Relations Act 1976 and the Disability Discrimination Act 1995) however our obligations will remain largely the same.
- 2.6 The provisions of the Equality Act are being brought into force at different times to allow time for the people and organisations affected by the new laws to prepare for them. Most of the provisions came into force on 1 October 2010. The Government is considering how the

remaining provisions will be commenced so that the Act is implemented in an effective and proportionate way.

- 2.7 The Equality Act 2010 has implications for both service providers and for public authorities however this report is intended to focus on the implications for the Authority as an employer.
- 2.8 The Equality Act covers the same groups that were protected by existing equality legislation and extends some protections to characteristics that were not previously covered – age, disability, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity and gender reassignment. These are now called '*protected characteristics*'.
- 2.9 An overview of the changes in equality legislation within the Public Sector are detailed within Appendix A of this report.
- 2.10 The timescales for implementation of the Act are as follows:-
- October 2010 – Main Provisions
 - April 2011 – The integrated public sector equality duty
 - 2012 – The ban on age discrimination in provision of goods, facilities, services and public functions
 - 2013 – Private and voluntary sector gender pay transparency regulations and political parties publishing diversity data.

3. Current Position

- 3.1 Treating people equally is essential to being an effective and productive organisation. The introduction of the new equality legislation has resulted in the removal of many inequalities within the workplace. The Authority must now aim to make equalities central to its employment practice. This is to ensure a diverse workforce that reflects the community we serve.
- 3.2 The Act covers the same groups that were protected by existing equality legislation and extends some protections to characteristics that were not previously covered. It also strengthens particular aspects of equality law.
- 3.3 Some examples of how the Equality Act strengthens discrimination law for '*protected characteristics*' include:

Pay gap/employment rates: employers with 150+ employees have to publish details of their gender pay gap, disability and race employment rate. Applies to the private sector from 2013.

Age: now unlawful to discriminate against people aged 18+ in relation to provision of goods and services such as in shops, hospitals and when buying financial products.

Positive action: employers are permitted (but not required) to take into account under-representation of particular groups when selecting from two equally qualified candidates. The selection of a less-well qualified candidate is not permitted and the Act does not allow employment quotas.

Associative discrimination: it is now unlawful to discriminate against someone because they are associated with someone with any of the listed protected characteristics. For example, sending an employee to Coventry because they are friendly with a gay person. Carers are also protected under association.

Perceptive discrimination: previously discrimination by perception (i.e. thinking someone has a certain characteristic and treating them adversely because of that) applied only to some equality strands. This is now extended to all *protected characteristics* other than marriage and civil partnership.

Transgender: previously there were a lot of grey areas around transgender but the Act strengthens the protection of their rights.

Maternity and breast-feeding: it is now unlawful to force breastfeeding mothers and their babies out of public places e.g. coffee shops, galleries and restaurants.

- 3.4 As a result the Authority may need to review or change some existing policies and procedures to reflect the new Act. Some of these changes would simply be an update of current policy. Members are asked to delegate powers of the Authority to the Director to update and approve relevant HR Policies and Procedures in relation to the Equality Act where there are no substantive changes to existing policy.
- 3.5 Where the review identifies significant changes in policy these will be referred back to Members for approval.

- 3.6 The Act also introduces a new integrated public sector equality duty in April 2011, which is basically a legal duty placed on public bodies, to be proactive in promoting equality. Previously, only race, disability and gender were covered by equality duties, the new duty is now extended to cover all protected characteristics.
- 3.7 Further guidance on the public sector duty is still to be issued as to how public bodies are expected to report on and implement the equality duty. Further reports to members will be produced where implications on the Authority have been identified.

4. Risk Implications

- 4.1 Failure to review and change the relevant existing policies, procedures or practices to reflect The Equality Act could leave the Authority open to a claim of legal breach of employment duty.

5. HR Implications

- 5.1 The Equality Act will ensure that the Authority will be consistent in what it needs to do to make the organisation a fair environment in which to work and ensures that it complies with the law.
- 5.2 Current Policy and Procedures will be reviewed, updated or amended to reflect the new legislation and all employees of the Authority will undertake training in relation to the changes.

6. Environmental Implications

- 6.1 There are no environmental implications to this report

7. Financial Implications

- 7.1 There are no direct financial implications to this report.

8. Conclusion

- 8.1 The Equality Act 2010 is now law although some of the provisions will not come into place until later this year. Failure to promote equality, foster good relations and prevent discrimination/harassment taking place could have legal implications for the Authority
- 8.2 The Authority has a number of policies and procedure which deal with equality issues. The Equality and Diversity Policy underpins the Authority's core values and demonstrates our commitment to equality and

diversity. Ensuring all policies and procedures are reviewed and updated to reflect the new Equality Act will help build on the good work the Authority is already doing.

- 8.3 Members are asked to delegate powers of the Authority to the Director to update and approve amendments to relevant HR Policies and Procedures where there are no substantive changes to existing policy.
- 8.4 Where the review of existing policies and procedures identifies a significant change in policy these will be referred back to Members for approval.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.