

STANDARDS COMMITTEE – 14 JULY 2009

PROGRESS ON CORPORATE EQUALITIES

Report of the: Monitoring Officer

Status: For information purposes

Executive Summary: The report provides Members of the Committee with details of the improvements to our services that will impact on the diverse range of people who use them. The report also looks at the Equality Bill and the Government Equalities Office Taskforce.

This report supports the Key Aim of effective management of Council resources.

Portfolio Holder Cllr. Elaine Bracken

Head of Service Head of Legal and Democratic Services – Christine Nuttall

Recommendation: Members are requested to note this report.

Background

- 1 This report provides Members of the Committee with details of a number of improvements to our services that will impact on the diverse range of people who use them. The report also considers the proposals set out in the Equality Bill and the Government Equalities Office Taskforce.

Introduction

- 2 Over the past year this authority has delivered a number of initiatives that should impact on the diverse range of people using the service. These can be summarised as follows:
 - Customer exit surveys show that 218 out of 221 visitors to the Council Offices at Argyle Road and Swanley Office feel they have experienced no discrimination.
 - Securing funding to modernise and improve the Edenbridge Gypsy Travellers' site.
 - Working in partnership to provide 5 mental health workshops with a total of 116 attendees.
 - Provided funding to West Kent Housing Association for 60 aids and adaptations for tenants.

- Making InShape widely available on CD or cassette on request and as MP3 files on our website.
 - Maintained the DisabledGo-Sevenoaks Access Guide with the addition of 25 new venues. The guide received 25,000 hits in the first six months of its second year.
 - Continued to work in partnership to support victims of domestic abuse.
 - Held falls prevention classes for people aged over 60.
- 3 The Council produces an Annual Equality Report that can be viewed at <http://dev.sevenoaks.gov.uk/equality>.
- 4 The tool that is used to measure a Council's performance on equalities is the Equality Framework for Local Government. The framework has three standards those being developing, achieving and excellent against which the Council would initially need to undertake a self assessment. This authority is now classed as an 'achieving authority' and priorities are currently being set for working towards 'excellent'.

The Equality Bill

- 5 The Equality Bill is currently progressing through parliament and is intended to strengthen protection, advance equality and simplify the law.
- 6 A bill was published after a number of reviews and consultation on the 24th April 2009 and is due to come into force in 2010. The provisions are subject to change following debate through Parliament. At present the key changes are as follows:

Harmonising the definition of direct discrimination

The Bill formalises the concept of discrimination by reference to 'protected characteristics', these being age, disability, gender reassignment, marriage and civil partnership, pregnancy, maternity, race, religion or belief, sex and sexual orientation. The definition is less favourable treatment 'because of protected characteristic'.

Harmonising the definition of indirect discrimination across all strands of discrimination

This will mean that Claimants will have to show that there is a provision, criterion or practice that puts members of their protected group at a particular disadvantage. For the first time, disability is included as a ground on which indirect discrimination will be unlawful.

Extending the definition of harassment in the employment context

Harassment will have the same definition across all areas of discrimination, and the focus will be on unwanted conduct which has the purpose or effect of

violating a person's dignity or creating an intimidating or hostile environment. It covers conduct which is related to a protected characteristic.

Protection from harassment has been further extended so that the employer can be held liable for harassment by a third party such as a customer or contractor if harassment has occurred on at least two earlier occasions and the employer has failed to take reasonable practicable steps to stop it.

Disability Related Discrimination

The Bill includes the Government's response to the House of Lords decision in *Malcolm v London Borough of Lewisham*. Under the bill, a person (A) discriminates against a disabled person (B) if he treats B in a particular way because of B's disability and that treatment amounts to a detriment and A cannot show that the treatment is justified as a proportionate means of achieving a legitimate aim. (A) has a defence if he can show that he did not know or could not reasonably be expected to know, that B had the disability.

Bringing equal pay under the scope of the Single Equality Bill

The Equal Pay Act 1970 is substantially replicated in the Bill. The Bill also bans secrecy clauses in employment contracts which prevent employees from discussing their pay or bonuses and protects an individual from victimisation if action is taken against them for discussing their pay with their colleagues.

Extending the scope of positive action

The Bill contains some provision for positive action. An employer will be able to take a protected characteristic into account when deciding who to recruit or promote, where people having the protected characteristic are at a disadvantage or are under-represented. This can only be done where the candidates are equally qualified. The clause does not allow employers to have a policy of treating people who share a protected characteristic more favourably than others.

Extending the definition of gender reassignment

The definition will be amended to make it clear that there is no need for either ongoing medical supervision or surgery in order for a person to be protected by the legislation prohibiting discrimination on the grounds of gender reassignment. The intention is to protect those who make a commitment to live permanently in their non birth gender but not transvestites or others who chose temporarily to adopt the appearance of the opposite gender.

Removing the "Two tier approach" that arose when the Race Relations Act 1976 was partially amended to implement the EC Race Directive

The old rules under the un-amended Race Relations Act currently apply to nationality and colour and the new rules under the amended part of the Race Relations Act when read in association with the EC Directive apply to race and ethnic and national origins. It is proposed to remove this anomaly so that the

newer provisions will apply to colour and nationality as well as to race and ethnic and national origins.

Strengthening enforcement to widen Tribunals' powers to make recommendations

Under the Equality Bill the Government proposes that Tribunals will be given the power to make recommendations to benefit the wider workforce and not merely the Claimant in the case. However, the recommendations must be proportionate and based on the evidence heard in the case.

Replacing the Public Sector Race, Gender and Disability Equality Duties with a unified duty covering all strands including gender reassignment

The bill creates a single equality duty. Age will be covered, but only in respect of people over the age of 18. The bill also imposes a duty on certain public bodies to have regard to 'socio-economic' factors when deciding on their strategic priorities. The difficulty with the Bill is that it does not define 'socio-economic' factors and the duty falls on the public authority to consider what disadvantages it can tackle.

The Bill contains very little in the way of proposals to address inequality in the private sector preferring to issue better guidance and voluntary equality check tool for private sector organisations. The Government suggests that public authorities use their public sector equality duties to ask potential contractors for information on equality.

Government Equalities Office Taskforce

- 7 The Government Equalities Office has established a Taskforce with the objective of identifying and taking practical action to increase the numbers of black and minority ethnic women to participate in public life and to become local Councillors.
- 8 Less than 1% of councillors are women from minority backgrounds despite being over 5% of the overall population.
- 9 The taskforce is chaired by Baroness Uddin, the first Muslim woman in the House of Lords and a prominent figure in the black and Asian community.
- 10 The taskforce's aims are to take practical steps to help women from ethnic minority groups enter public life. The taskforce members are fully committed to supporting and advising women interested in becoming a local councillor.

Options (and Reasons for the Recommendation)

- 11 The report is for information and discussion.

Key Implications

Financial

- 12 There are no significant financial issues arising from this report.

Impact on and Outcomes for the Community

- 13 Within 2008-9 year end there has been significant progress on the Corporate Equalities programme and this authority is currently working towards achieving an “excellent” standard.
- 14 The Equalities Bill due to come into force in 2010 aims to harmonise discrimination law and to strengthen the law to support progress on equality. The Bill will replace all existing equality legislation, including the Equal Pay Act.

Legal, Human Rights etc.

- 15 Paragraph 3(2)(a) of the Code of Conduct states that “you must not do anything which may cause your authority to breach any of the equality enactments”. Therefore it is important that Councillors take notice of the improvements that have been taking place within the organisation in relation to promoting corporate equalities and the possible changes resulting from a single equality act.

Resource (non-financial)

- 16 A lot of the work in relation to Corporate Equalities have been achieved via the Corporate Equalities Monitoring Group allowing resource needs to be met within existing budget allocations. This Council also shares an Equality Policy Officer with Tunbridge Wells Borough Council.

Value For Money and Asset Management

- 17 The Corporate Equalities programme is being achieved with the minimum use of resources as set out above.

Equality

- 18 The Council is currently working towards achieving an “excellent” standard in relation to its Corporate Equalities programme. It is anticipated that the Equalities Bill will be passed in 2010.

Sustainability Checklist

- 19 The Corporate Equalities programme of this authority plus the changes envisaged by the Equalities Bill when passed should promote the ethical and corporate governance of the Authority enhancing public confidence.

Conclusions

- 20 This report provides Members with details of the progress being made by this authority in working towards an “excellent” standard in the area of Corporate Equalities. In addition the report sets out the main provisions of the Equality Bill and the work undertaken by the Government Equalities Office Taskforce.

Risk Assessment Statement

- 21 The Equalities Bill looks to strengthen the law in a number of key areas and public bodies will need to consider how their policies, programmes and service delivery will affect people with the protected characteristics
- 22 An authority may also need to extend the circumstances in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic.
- 23 Under the Bill an employer can be held liable for harassment by a third party such as a customer or contractor and the employer has failed to take reasonable practical steps to stop it. An authority will need to be especially vigilant in this area of the new law bearing in mind the increasing number of customer or contractor arrangements taking place.

Sources of Information: Briefings from the Government Equalities Office
The Code of Conduct for Members
Corporate Equalities Monitoring Group Bulletin 2008-9 year end
Equality Bill
DMH Stallard – Employment Law – Legislative Changes

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