

Committee: **Valuing Diversity Working Party**

Date: **8 June 2005**

Report of: **Assistant Chief Executive**

Report No:

Contact Officer: **Jayne Craig, Senior Fairness Officer**
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Subject:

The impending Disability Discrimination Bill and its implications for local government

Purpose of Report:

To inform the Valuing Diversity Working Party of the implications of the impending Disability Discrimination Bill, which will extend the Disability Discrimination Act 1995 by imposing a proactive duty to promote disability equality, along the same lines as the duties imposed in race by the 2000 Act.

Recommendations:

The Valuing Diversity Working Party is recommended to:

- i) Note the new requirements of the Disability Equality Duty for the Public Sector, and**

- ii) Support the proposed changes to the Council's disability consultation processes, including the development of new fora for consultation with disabled staff and disabled customers**



1. Executive Summary and Recommendations

- 1.1 The Government's new Disability Discrimination Bill will become law in December 2006. This Bill will enhance the Disability Discrimination Act 1995 (DDA) by requiring public bodies to take a proactive approach to promoting disability equality and positive attitudes towards disabled people. This Bill will mirror the positive duty to anticipate and prevent discrimination imposed by the Race Relations Amendment Act 2000 in race. It will also for the first time provide Elected Members with specific protection under the DDA and make it illegal for a local authority to discriminate against disabled Members whilst carrying out their official duties.
- 1.2 The principal terms of the Bill are described below, but because the Council has already included disabled people (as well as its other priority social groups) in the structures it has set in place for the 2000 Act (Relevance Reviews, Equality Impact Assessments and clear links between those activities and Service Improvement Action Plans), Bolton is very well placed to respond to most of the new requirements.
- 1.3 The main area where further working is required lies in the issue of consultation with disabled people. The Bill will require us to demonstrate how disabled people have been "involved" (as opposed to "consulted with") in our service planning processes, and though our current arrangements via the Disability Steering Group and the Citizen's Panel have served us well to date it is clear that we now need to broaden our consultation processes to improve our ability to talk to our disabled customers.

- 1.4 The Advisory Group for Disability and Age (AGDA, formerly known as the Disability Steering Group, or DSG), the Council's Corporate Focus Group for disability and age issues, is currently reviewing its role and re-assessing the most effective way to ensure that the interests of disabled people are taken into account in both our service delivery and our employment practices. AGDA's initial report, published in May 2004, anticipated the new Bill and made general proposals to enhance our consultation arrangements. These were agreed, and this Report represents the first attempt to set out what the new arrangements might look like. The key proposal is to create two new consultation channels:

- ✱ A Disability Consultation Forum, to consult with customers; and
- ✱ A Disabled Officers' Group

2. The Disability Equality Duty for the Public Sector

- 2.1 For the Council the most important change to the Disability Discrimination Act 1995 contained in the Disability Discrimination Bill is imposition of the Disability Equality Duty, which the Government envisages will have a significant impact on the way in which all public services are run, and on improving the lives of disabled people. The Duty will require us to anticipate and prevent discrimination against disabled people in service delivery and employment and is very similar to the framework established for race by the Race Relations Amendment Act 2000.
- 2.2 The Bill will be in place by December 2006, and in preparation the Disability Rights Commission have consulted widely to help provide a range of guidance and information to assist Public Bodies, including the production of a Code of Practice to be finalised by December this year but currently available in draft form. The proposals in this Report reflect the requirements of the draft Code, which are not likely to change in any major way.
- 2.3 Although the duty will extend the DDA it is a new approach which is aimed at building on disability equality at the beginning of a process, rather than making adjustments half way through or at the end as a bolt on. Its purpose is to bring about a shift from the legal framework which relies on individual disabled people making complaints of discrimination,

to one in which the public sector becomes a proactive agent of change. The Government and Disability Rights Commission are clear that the duty is not intended to be a bureaucratic exercise, but is about public bodies mainstreaming disability equality into the way they carry out their functions.

- 2.4 The Duty is intended to be a tool for tackling institutional discrimination where an organisation's policies, practices or procedures may discriminate against disabled people. For example visually impaired people may find using an organisation's website difficult due to an inappropriate font size or colour scheme and incompatibility with voice assisted software.
- 2.5 Like the 2000 Act the Duty will be made up of two parts, a General Duty and Specific Duties. The General duty will apply to every public body and is based on the social model of disability which states that disabled people are disabled by barriers in the environment, social attitudes and organisational policies, practices and procedures. The duty is aimed at removing these barriers by requiring organisations to proactively:
- ✱ Eliminate unlawful discrimination,
 - ✱ promote equal opportunities,
 - ✱ eliminate disability related harassment,
 - ✱ promote positive attitudes towards disabled people,
 - ✱ Encourage participation of disabled people in public life ie in the media or Councillors with a disability.
- 2.6 The General duty will not tell public bodies how to do their work but will require them to have due regard to disability equality in relation to all policies and practices including planning, policy making, service delivery, employment etc.
- 2.7 The specific duty applies to the bodies within the public sector which are key to improving disability equality, including Local Authorities. The Council will be required to do the following:

(i) Produce and publish a Disability Equality Scheme (DES)

The draft Code of Practice provides guidance on the structure of this scheme which includes demonstrating senior management and Chief Executive Commitment.

The scheme will have to include action plans to fulfil the general duty, linked to the strategic priorities of the organisation with desired outcomes to promote disability equality against a realistic timetable.

(ii) Publish a progress report

This must be done on an annual basis and the DES must be revised and reviewed on a 3 year cycle.

(iii) Involve disabled people

The Council will be required to demonstrate how disabled people have been involved in producing the Disability Equality Scheme. Note the use of the word 'involved', rather than 'consulted with'. The Government and DRC feel this is a more proactive approach than consultation, and more likely to result in getting things right for disabled people at the planning stage.

(iv) Equality Impact Assessment

The Disability Equality Scheme must show how the impact of current and proposed activities on disabled people will be assessed, very much as is required of the Council by the Race Relations Amendment (2000) Act.

(v) Measure progress

The draft Code of Practice lists the following measures of progress that the Council will be required to use and report on:

- recruitment, retention and career development of disabled staff
- accessibility and suitability of services to disabled people
- admissions and educational attainment of disabled students in educational establishments

3. Assessment of our current situation

- 3.1 As outlined in Section 2 of this report the purpose of the Disability Equality Duty is to ensure public bodies take a proactive approach to providing fair and accessible services and employment opportunities to disabled people. This is not a new approach for Bolton MBC and there is clear evidence that it has been committed to this for a long time. Indeed the Council already has in place most of the systems and processes which are required by the duty. For example:

Produce and Publish a Disability Equality Scheme (DES)

- 3.2 Bolton MBC has a Comprehensive Equality Scheme which clearly outlines the Organisations commitment to diversity and fairness, including disability, in the form of the Valuing Diversity policy statements. It shows the structures in place for addressing fairness issues including the Senior Management and members commitment demonstrated by the direct line of communication from the Valuing Diversity Working Party and Executive Management Team to the staff/officer fairness groups.
- 3.3 This year the Council required all Service Improvement Action Planning units to undertake the Relevance Review procedure for disability and gender. Results had to be implemented into all Service Improvement Action Plans as a way to address and ensure disability and gender equality in the Organisation.

Subject to consideration of the details of the final terms of the Bill, it seems likely that we can claim that we have a DES in place.

Publish a Progress Report

- 3.4 The Councils Corporate Business Planning Process already requires reporting on Service Improvement Action Plans on an annual basis, and reviewing the Comprehensive Equality Policy on a 3 year cycle. This should fulfill the requirements of the Bill.

Equality Impact Assessments (EIAs)

- 3.5 EIAs require us to examine all proposals for new policies or amendments to old policies to determine whether the proposals could have a differential impact on different racial groups. From May 1st 2005 the Council has included disability (and gender) in the EIA process established in 2004 for race. Here we are clearly ahead of the game.

Measure Progress

- 3.6 The annual staff audit report provides information on the number and percentage of Council staff who are disabled, though this may need to be enhanced to consider issues of career progression and retention for disabled employees. The new CSS system will enable us to exit monitor, and so address retention for the first time. In general, though, our existing systems will enable us to meet all the requirements for monitoring the situation of disabled people in our workforce.
- 3.7 The Relevance Review procedure set up in response to the 2000 requires all SIAP units to measure the accessibility and suitability of services to disabled people, and the BVPI 156 requires the Council to report on the percentage of buildings used by the public which are physically accessible. These two measures should meet the requirement for measuring progress in terms of access to our buildings and services.

Involving Disabled People

- 3.8 This is the area where further working is most obviously required. The Council's main vehicle for consulting with disabled people is the

Advisory Group for Disability and Age (AGDA, previously the Disability Steering Group or DSG). AGDA/DSG has been in operation since the early 1990s and has acted as a strategic customer/Officer consultation forum in terms of disability issues. AGDA's membership included disabled officers and limited community representation. It has recently taken on responsibility for age issues, hence the change of title.

- 3.9 AGDA was already in the process of reviewing its role and membership, partly in anticipation of the new Bill. The publication of the draft Code of Practice on the Disability Duty for the Public Sector, providing more clarity on what will be required from the Council, has enabled the group to finalise its proposals for future consultation structures.

Current arrangements

- 3.10 Consultation with customers from all excluded social groups is very much part of the culture of Bolton Metro's service departments and there are arrangements in place for consultation with disabled customers at service levels. However, direct corporate consultation with disabled people consists of one community representative sitting on the Advisory Group for Disability and Age. Whilst this has been a very useful resource and indeed has resulted in many useful outcomes, it is clearly not reflecting the diversity of the population of disabled people the Council serves.

- 3.11 The Council's main channels for customer consultation include:

- (i) The Citizens Panel,
- (ii) Area Fora
- (iii) The complaints procedure.

- 3.11 Substantial efforts have been made in the first two areas to ensure that they are sensitised to the needs of disabled people and work is now going on to review and revamp the Complaints procedure. However disabled people often feel suppressed by mainstream consultation and it tends not to be as effective in gathering the diversity of views and requirements of disabled people as a separate, dedicated process.

- 3.12 The introduction of the Disability Equality Duty has strengthened the need for the Council to involve and consult with disabled people in a more systematic and effective way. There is no separate corporate process for directly consulting and involving disabled people as there is for race in the form of the Consultation Groups 1 and 2, and the annual MORI survey of ethnic minorities, and it seems clear that new

arrangements will be required to meet the new Duty.

AGDA (DSG)

3.13 As the single corporate consultation structure for disability AGDA has evolved to serve three main purposes:

- (i) Addressing disability issues from a strategic perspective – the technical and administrative role
- (ii) Providing a consultation forum for departments to consult with disabled people
- (iii) A channel for disabled staff to raise operational and/or employment issues

3.14 All three of these functions are necessary if the Council is to meet its new legal obligations and achieve its agreed goal of acquiring exemplar status as an employer and service provider. However AGDA had already concluded that as these are three very different functions there were good reasons to consider separating them into different channels.

3.15 Approaches adopted by other local authorities have been considered. For example Manchester City Council has a strong link with disabled people in the Borough via their Access Review Forum made of up people from disability representative groups. Trafford MBC has strong links with its disabled residents via the formation of groups representing the main areas of disability, for example Trafford Deaf partnership and the VIP Group. Trafford also has an effective Disabled Employee Forum which addresses employment issues.

Proposed Way Forward

3.16 Taking these models into consideration, it is proposed that Bolton MBC separate the three roles the former Disability Steering Group has addressed and work towards developing the following processes:

(i) The Advisory Group for Disability and Age

The Advisory Group for Disability and Age will remain to address and influence the strategic disability issues such as the Relevance Review process and the Communication Strategy, and also address and advise the Council on the imminent legislation for age. AGDA's action plan for 2005/06 is attached as Appendix 1.

Membership should consist of Officers from each Council department who are linked to the Department Fairness Groups and who are able to influence their department's response to fairness issues.

(ii) The Disability Consultation Forum

The Forum would mirror the consultation channel for race established by the Strategic Race Consultation Groups and would consist of a regular series of meetings between representatives of the Council and groups representing disabled people. These groups would be responsible for transmitting information to and from their particular client groups.

AGDA is in the process of making initial contact with groups representing disabled people in the Borough. Once contact has been made an initial meeting will be set up with the purpose of informing the disabled community of the Councils commitment to consulting with them, and discussing how best to achieve this. Communication generally will clearly be a major issue, but a meeting-based approach is the most likely outcome.

The role of the proposed group needs careful definition. As is currently the case, individual departments and service units will be expected to consult over the detail of operational issues. What is required is a local forum for strategic, over-arching issues affecting disabled people.

It is envisaged that like the Strategic Race Groups consultees will be encouraged to bring their own concerns for discussion but service areas within the Council will be encouraged to use the meetings as a process of consultation on issues which will have a substantial effect on the Council and disabled people. The remit of the group will take the form of raising strategic issues in terms of access, identifying and responding to projects and proposals to improve accessibility in the Borough, and monitoring and evaluating the delivery of the Councils disability action plans as required by the Disability Equality Duty.

(iii) Disabled Officers Group

To meet the Duty we will need to have a process for dialogue disabled staff to find out what their wants and needs are, and provide an opportunity to raise any issues or share information. Though not totally separate from customer needs, a forum is required for addressing the specific concerns of disabled staff. Again, the proposal is for regular

meetings with disabled staff to consult with them and listen to their concerns and suggestions. This might be linked to the existing UNISON Disabled Members Group.

4. Recommendation

4.1 The Valuing Diversity Working Party is recommended to:

- i) Note the new requirements of the Disability Equality Duty for the Public Sector, and
- ii) Support the proposed changes to the Council's disability consultation processes, including the development of new fora for consultation with disabled staff and disabled customers

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