

EAST AYRSHIRE COUNCIL

CORPORATE GOVERNANCE COMMITTEE

10 FEBRUARY 2004

EMPLOYMENT EQUALITY REGULATIONS 2003

Report by the Depute Chief Executive/Director of Corporate Resources

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee on the impact to the Council of recent equal opportunity employment legislation.

2. BACKGROUND

- 2.1 In 1996 East Ayrshire Council adopted the following Equal Opportunities Strategy Statement:

“As an employer and provider of services, East Ayrshire Council will promote equality of opportunity. No employee, job applicant, customer or recipient of services will receive less favourable treatment than any other on any grounds including the following: race, religion, nationality, ethnic or national origins, disability, age, gender, sexuality, marital status, responsibility for dependents, employment status, address, Trade Union activity or political affiliation.

Or be disadvantaged by conditions or requirements which cannot be shown to be justifiable.”

3. EMPLOYMENT EQUALITY REGULATIONS

- 3.1 On 1 December 2003 the following two pieces of legislation became law in the United Kingdom:-

- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003

- 3.2 This legislation makes it illegal to discriminate against an individual on the grounds of their religious belief or sexual orientation in respect of their employment or their attempt to gain employment. A summary of the key points from both pieces of legislation is attached as Appendix 1 to this report.

4. IMPACT

- 4.1 The Council's existing Equal Opportunities Strategy as outlined at paragraph 2.1 above makes a positive commitment against discrimination towards individuals on grounds of their religious beliefs or their sexuality. As such, the Strategy does not require amending to comply with this new legislation.

4.2 Furthermore, the Council's existing employment policies in addition to reflecting the sentiment of the Equal Opportunities Strategy have been developed and implemented with a view to ensuring that equality and fairness in treatment is maintained at all times. Again, there is no requirement to amend the Council's existing employment policies and practices.

4.3 It is recommended that the Council circulate the Equal Opportunities Strategy Statement to all employees in the form of a Personnel Circular, bringing the legislative change to their attention and reminding them of their responsibilities within employment.

5. FINANCIAL IMPLICATIONS

5.1 Nil

6. POLICY/LEGAL IMPLICATIONS

6.1 The Council's existing Equal Opportunities Strategy and employment policies reflect the requirements of the Employment Equality (Religion or Belief) Regulations 2003 and the Employment Equality (Sexual Orientation) Regulations 2003.

6.2 In addition to the Council's Equal Opportunities Strategy the Personal Harassment Policy advises all Council employees of their responsibility to ensure that they do not behave in a way that could be offensive to others.

7. RECOMMENDATIONS

7.1 The Committee is asked to:-

- (a) note the introduction of the Employment Equality (Religion or Belief) Regulations 2003 and the Employment Equality (Sexual Orientation) Regulations 2003;
- (b) agree that the Equal Opportunities Strategy Statement be circulated to all employees in the form of a Personnel Circular; and
- (c) otherwise note the content of this report.

Fiona Lees
Director of Corporate Resources/Depute Chief Executive
GH/EG
21 January 2004

APPENDICES

- 1.** Summary of main points of Employment Equality (Religion or Belief) Regulations 2003.
- 2.** Summary of main points of Employment Equality (Sexual Orientation) Regulations 2003.

LIST OF BACKGROUND PAPERS

1. East Ayrshire Council's Equal Opportunities Strategy
2. Employment Equality (Religion or Belief) Regulations 2003
3. Employment Equality (Sexual Orientation) Regulations 2003
4. ACAS guidance

Anyone wishing further information concerning this report should contact
Graham Haugh, Head of Personnel, telephone (01563) 576092

EMPLOYMENT EQUALITY (RELIGION OR BELIEF) REGULATIONS 2003

WHAT THE REGULATIONS SAY – in summary

These Regulations apply to vocational training and all facets of employment – including recruitment, terms and conditions, promotions, transfers, dismissals and training. They make it unlawful on the grounds of religion or belief to:

- discriminate directly against anyone. That is, to treat them less favourably than others because of their religion or belief;
- discriminate indirectly against anyone. That is, to apply a criterion, provision or practice which disadvantages people of a particular religion or belief unless it can be objectively justified;
- subject someone to harassment. Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment having regard to all the circumstances and the perception of the victim;
- victimise someone because they have made or intend to make a complaint or allegation or have given or intend to give evidence in relation to a complaint of discrimination on the grounds of religion or belief;
- discriminate or harass someone in certain circumstances after the working relationship has ended. Exceptions may be made in very limited circumstances if there is a genuine occupational requirement for the worker to be of a particular religion or belief in order to do the job or to comply with the religious or belief ethos of the organisation.

Religion or belief is defined as being any religion, religious belief or similar philosophical belief. This does not include any philosophical or political belief unless it is similar to religious belief. It will be for the Employment Tribunals and other Courts to decide whether particular circumstances are covered by the regulations.

EMPLOYMENT EQUALITY (SEXUAL ORIENTATION) REGULATIONS 2003

WHAT THE REGULATIONS SAY – in summary

These Regulations apply to all employment and vocational training and include recruitment, terms and conditions, promotions, transfers, dismissals and training. They make it unlawful on the grounds sexual orientation to:

- discriminate directly against anyone – that is, to treat them less favourably than others because of their actual or perceived sexual orientation;
- discriminate indirectly against anyone – that is, to apply a criterion, provision or practice which disadvantages people of a particular sexual orientation unless it can be objectively justified;
- subject someone to harassment. Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them having regard to all the circumstances including the perception of the victim;
- victimise someone because they have made or intend to make a complaint or allegation or have given or intend to give evidence in relation to a complaint of discrimination on grounds of sexual orientation;
- discriminate against someone, in certain circumstances, after the working relationship has ended.

Within the Regulations, sexual orientation is defined as – Orientation towards persons of the same sex (lesbians and gay men) Orientation towards persons of the opposite sex (heterosexual) Orientation towards persons of the same sex and the opposite sex (bisexual).