

## **EAST AYRSHIRE COUNCIL**

### **NORTHERN AREA LOCAL COMMITTEE - 15 MAY 2002**

#### **DISABILITY DISCRIMINATION ACT 1995**

##### **Report by Depute Chief Executive/Director of Corporate Resources**

### **1. PURPOSE OF REPORT**

- 1.1 The purpose of the report is to advise the Committee of the legal requirements of the Disability Discrimination Act 1995 with particular reference to Council owned properties, and of the approach being adopted by East Ayrshire Council to address these requirements.

### **2. BACKGROUND**

- 2.1 The Local Committee, at a previous meeting, asked for a report on the Council's responsibilities under the Disabled Discrimination Act 1995 and what action is proposed to meet these in relation to Council owned properties.

### **3. LEGAL REQUIREMENTS**

- 3.1 Since 2 December 1996 it is unlawful for service providers to treat disabled people less favourably for reasons related to their disability.
- 3.2 The Act makes it unlawful to discriminate against disabled people in relation to
- Employment Law
  - The provision of Goods and Services
  - The selling, Letting or Managing Land or Premises
- 3.3 The Act recognises that discrimination does occur, and seeks to put an end to discrimination made through ignorance. It provides for disabled people to challenge discrimination or seek redress.
- 3.4 The Act is all embracing. It affects all who provide goods, facilities or services, from the most senior employee in an organisation to the most junior. An employee, as well as a service provider, may be held liable for any breach of the Act. The Act affects councils, hospitals, hotels, restaurants, churches, hairdressers, petrol stations, banks, in fact all public service providers.

### **4. TIMETABLE**

- 4.1 In relation to employment rights, the provisions of the Act were introduced in December 1996.

- 4.2** In relation to buildings, from 2004 service providers will have to make “reasonable adjustments” to the physical features of buildings, to make them accessible to disabled service users.
- 4.3** From October 1999, all service providers are required to make “reasonable adjustments” to the way in which they deliver their services for disabled people. This may include providing extra help.
- 4.4** Disability is defined in the Act as a physical or mental impairment which has a substantial long term adverse effect on a person’s ability to carry out normal day-to-day activities. This definition is quite wide, and encompasses some conditions or disabilities which may not be immediately apparent. This does not exonerate a service provider from having to consider such a disability in the delivery of services.

## **5. POLICY IMPLICATIONS**

- 5.1** Equality and Access are two of the four corner stones of the Council’s commitment to the people of East Ayrshire. The legislative requirements in the Act are consistent with the Council’s commitment to equal opportunities and access to Council services.

## **6. PUBLIC BUILDINGS**

- 6.1** The Council’s Equal Opportunities Strategy Officer Implementation Group approved on 7 December 1999 a joint report by the Director of Development Services and the Director of Homes and Technical Services for a framework of priorities for improvements and adaptations to buildings, and instructed an audit of all Council premises in terms of both access and facilities. This audit is required to enable the Council to meet its statutory obligations in respect of public buildings and the letting and management of property by the year 2004.
- 6.2** An audit of buildings in educational use is being undertaken for health and safety requirements and particular attention will be given to access arrangements for the disabled. The intention is to roll out this review across all services of the Council.
- 6.3** The Council has always ringfenced an element of its Capital Programme for disability access. The resource implications will be considered once results of the audit are known.

## **7. GOODS AND SERVICES**

- 7.1** The Council as a service provider is committed to ensuring that all service users have equal access to its services.
- 7.2** Unlawful treatment in terms of the Act occurs in the following circumstances:-
- The service user meets the Act’s definition of disability
  - The service is not excluded from the Act
  - The disabled person has received less favourable treatment

- There has been a failure to provide reasonable adjustment
- The service provider cannot justify the treatment or failure to make reasonable adjustment

**7.3** The most important exclusions from the Act in terms of services are transport, including taxis and other vehicles, education and private clubs. For the Council, adoption is another important exception, as this is seen as the right of a child, not the rights of prospective adoptive parents. Otherwise, most services provided by the Council will fall within the ambit of the Act.

**7.4** In order to enable the Council to timeously implement its obligations in terms of the Act all services provided by the Council will require to be examined to ensure that there is no inadvertent discrimination. Proper staff training and informed service planning is critical to avoid inadvertent discrimination and to support good practice in the workplace.

**7.5** The Council currently offers induction training to all staff members on commencement of employment and thereafter offers more specific training in the areas of recruitment and selection, customer care and equal opportunity awareness.

**7.6** A Disabled Employee Forum has also been established which provides an opportunity for a representative group of disabled employees to be consulted on employment policy proposals. The employees also have the opportunity to put forward any ideas and suggestions which they believe would enhance the Council's ability to retain disabled employees and attract job applications from disabled persons.

**7.7** In terms of the Act the obligation to make reasonable adjustments is owed to disabled people at large. It is therefore necessary to anticipate the needs of disabled service users, rather than simply reacting when a disabled service user experiences difficulties in a service. Service providers have a duty to take reasonable steps to:-

- change a policy, practice and procedure which makes it impossible or unreasonably difficult for disabled people to make use of its service
- provide the service by a reasonably alternative method to disabled people where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of them
- provide auxiliary aid or service if it would enable (or make it easier for) disabled people to make use of services

## **8. RECOMMENDATIONS**

**8.1** The Committee are asked to note the contents of the report.

Fiona Lees  
Depute Chief Executive/  
Director of Corporate Resources

18 April 2002

**LIST OF BACKGROUND PAPERS - NIL**

Any person wishing further information on this report should contact Fiona Lees, Depute Chief Executive/Director of Corporate Resources on (01563) 576019.

**AGENDA**