

# **Brighton & Hove City Council**

## **For general release**

**Meeting:** Equalities Forum

**Date:** 30<sup>th</sup> January 2006

**Report of:** Director of Strategy and Governance

**Subject:** The Equality Bill

### **1. Purpose of the report**

- 1.1 This report sets out the key provisions of the Equality Bill. The Bill proposes the creation of a single Commission for Equalities and Human Rights (CEHR) as well as extending discrimination law to create a number of new powers and duties relevant to local authorities.

### **2. Recommendations**

- 2.1 That the Forum notes the proposals set out in the Equality Bill;
- 2.2 That the Forum instructs officers to bring a report to a future meeting setting out the action required by the Council to implement the new duties.
- 2.3 That the Forum instructs officers to consider awareness raising for Members, staff and partner organisations on the new duties.

### **3. Information/background**

- 3.1 In July 2004 the Equalities Forum received a report on the Government's White Paper "Fairness for All: A new Commission for Equalities and Human Rights". The White Paper reported that, whilst significant progress had been made in the 30 years since the first Equality Commissions were established, the pace of change in tackling inequality needed to be stepped up. A number of new challenges were cited as supporting the need for change, including:-

- ❑ The changing nature of our society (such as an ageing population and increased globalisation and migration);
  - ❑ The growing volume and complexity of equalities legislation;
  - ❑ The passing of the Human Rights Act 1998 and the concern that human rights has not been “mainstreamed” into the policy and practice of public bodies;
  - ❑ A desire to view equalities systematically across society.
- 3.2 The core proposal in the White Paper was the creation of a single body that would bring together the functions of the three existing Equality Commissions as well as covering age, sexuality, religion and human rights.
- 3.3 Following consultation on the White Paper, the Government's proposals are now being taken forward through the Equality Bill. The Bill had its third reading on 16<sup>th</sup> January 2006 and is likely to receive Royal Assent shortly. The key provisions in the Equality Bill are:-
  - (a) The creation of the new Commission for Equality and Human Rights (CEHR);
  - (b) New powers to outlaw discrimination on grounds of religion or belief;
  - (c) A duty on public authorities to promote gender equality and prohibit sex discrimination in the exercise of public functions.

## 4 **Creation of the CEHR**

- 4.1 The core functions of the CEHR will be:-
  - Promoting and encouraging awareness and good practice on equality and diversity, for example through awareness campaigns and providing advice;
  - Promoting an understanding of and enforcing rights under equality legislation. The enforcement function will include investigating compliance with legislation, including powers to issue unlawful act notices, as well as providing legal assistance in individual cases;
  - Monitoring the effectiveness of equality and human rights legislation and providing advice and recommendations on the law and proposed changes to the law;

- Promoting awareness, understanding and protection of human rights, in particular by encouraging public authorities to improve compliance with the Human Rights Act, and by providing information and advice to the public;
  - Promoting good relations between and within communities, for example through supporting local initiatives and promoting dialogue between different communities and groups. The Commission will have a regional presence across the country;
  - Working to reduce crime affecting particular communities, including new powers to monitor hate crimes;
  - Conducting Inquiries, for example on themes such as the inequality in the uptake of health screening services;
  - Consulting with stakeholders in developing its strategic plan and publishing a regular "state of the Nation" equality health check report.
- 4.2 The CEHR will start work in October 2007, with the exception of the areas for which the Commission for Race Equality (CRE) is currently responsible, which will transfer to the CEHR in April 2009.
- 4.3 The proposals for the CEHR have been welcomed by the existing Commissions and other stakeholders. The common view is that in order to facilitate the promotion of equality and human rights on an integrated basis, a single Commission is required to communicate with a clear and consistent voice.
- 4.4 There are still concerns that there is not yet a coherent legislative framework for the new Commission to administer. Equality and discrimination law continues to be contained within a number of different pieces of legislation and the coverage is inconsistent and patchy in many areas. In response to this criticism, the Government has indicated that it is committed to a single Equality Act. There are two reviews ongoing (the Equality Review chaired by Trevor Phillips and the Discrimination Law Review) which will make recommendations on the reform of equality legislation. The findings of these two reviews will be instrumental in shaping the future legislative framework and the strategic priorities of the new CEHR.
- 4.5 There is also concern about the funding for the CEHR. Whilst there are some possibilities of savings by merging the existing

Commissions, adequate resources will need to be provided for the CEHR to be fully effective. The annual operating costs of the CEHR are estimated at £70 million and the set up costs estimated at £24million. Bodies such as the CRE are pressing for An express commitment to this level of Government funding.

## **5. The extension of protection against discrimination on the grounds of religion or belief**

- 5.1 The Race Relations Act 1976 (RRA) prohibits discrimination in the provision of goods, facilities, services or premises on the grounds of race. Some ethnic groups have been recognised by case law as protected by the RRA. However, the protection does not extend to all religions or beliefs, such as Christians and Muslims.
- 5.2 The Employment Equality (Religion or Belief) Regulations 2003 (the 2003 Regulations) prohibit discrimination on the grounds of religion or belief but only in fields of employment and vocational training. They do not cover discrimination on the basis of a person's religion or belief in the supply of goods, facilities, services and premises. This leaves a loophole whereby there is not equitable protection from religious discrimination to followers of all religions and beliefs.
- 5.3 The Equality Bill proposes to close the current loophole by making it unlawful to discriminate on the grounds of religion or belief in the provision of goods, facilities, services, premises, education and in the exercise of public functions.
- 5.4 The new protections are intended to capture direct discrimination, indirect discrimination and victimisation. There will be a number of exceptions, for example:-
  - Education – faith schools will be exempted from the provisions, as will the areas of collective worship, the national curriculum and religious education;
  - Charities – to allow charities with a religion or belief ethos to discriminate in the provision of their services
  - Acts safeguarding national security.
- 5.5 The Bill also states that the new, broader, concept of harassment introduced by the 2003 Regulations will apply to public functions. Under this concept harassment is defined as unwanted conduct that has the purpose or effect of violating a person's dignity or

creating an intimidating, degrading, humiliating, or offensive environment for that person.

**6. The extension of protection against discrimination on the grounds of sexual orientation – an amendment to the Bill**

- 6.1 As with the law on discrimination on the grounds of religion or belief, protection from discrimination on the grounds of sexual orientation is currently limited to employment and vocational training. An amendment to the Bill has now been accepted (on 11<sup>th</sup> January 2006) which will outlaw discrimination on the grounds of sexual orientation in providing goods and services or organising public functions.
- 6.2 The amendment was prompted by several complaints that gay couples have been turned away from bed and breakfast places, hotels and restaurants. Further support has been given to the amendment with allegations that some GPs refuse to treat gay men and that some councils were refusing to allow gay couples to hold wedding ceremonies when they registered for civil partnerships.
- 6.3 In view of the high level of backing from MPs in relation to this amendment (more than 100 MPs signed the motion) it is likely that the amendment will survive the final stages of the Bill's passage through Parliament.

**7. The new duty to promote gender equality**

- 7.1 The Bill proposes a new duty on public bodies, such as the Council, to promote gender equality when exercising its functions. The proposed changes will bring the Sex Discrimination Act into line with race and disabilities legislation.
- 7.2 The new obligation to eliminate discrimination and promote equality of opportunity between men and women will impact on the Council's roles as an employer, in service delivery and in performing regulatory functions.
- 7.3 In addition to the general duty to promote gender equality, it is proposed that specific duties will require authorities to:-
- Identify and implement specific gender equality goals;
  - Develop and publish an equal pay policy statement;

- Undertake gender impact assessments of new policies and service charges and publish assessment reports.
- 7.4 Local Authorities will be required to comply with both general and specific duties, but a decision has not yet been made on whether schools will be required to comply with specific duties.
- 7.5 DTI consultation is currently taking place on the proposals and it is intended that the new duties will be in place from April 2007. Consultation events are taking place in March 2006.

## **8. Summary of implications for the Council**

- 8.1 The single access point and coherent provision of advice and support afforded by the new CEHR should assist the Council in meeting its priorities in relation to equalities.
- 8.2 The extension of discrimination legislation in the fields of religion or belief and sexual orientation will be welcomed by the Council. The new protections strengthen local authorities' powers to deliver their services in the most positive way. However, anomalies still exist within and between current legislation and a single Equality Act would better enable authorities to address equality and diversity issues across the board. Officers will report to this Forum the outcome of the Equality Review and the progress towards unified legislation.
- 8.3 The new general duty to promote gender equality, together with the specific duties proposed, will also be seen as a positive recognition of the continuing inequalities on the basis of gender. They will be new responsibilities for the Council and will require preparation to put the relevant processes in place as well as additional resources to implement them.

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