

Council meeting, 31 March 2011

Equality Act 2010

Executive summary and recommendations

Introduction

1. The Equality Act 2010 (the **2010 Act**) will consolidate into a single Act a range of existing equalities-based legislation, including:-
 - Equal Pay Act 1970;
 - Sex Discriminations Act 1975;
 - Race Relations Act 1976;
 - Disability Discrimination Act 1995;
 - Employment Equality (Religion or Belief) Regulations 2003;
 - Employment Equality (Sexual Orientation) Regulations 2003;
 - Employment Equality (Age) Regulations 2006;
 - Equality Act 2006, Part 2; and
 - Equality Act (Sexual Orientation) Regulations 2007.
2. The 2010 Act removes many of the inconsistencies in the law which have arisen as a result of the piecemeal development of the legislation. Revised public sector duties will come into force under the 2010 Act in April of this year and the remainder of the Act will be implemented throughout 2012 and 2013.
3. The rationalisation of discrimination laws by the 2010 Act will introduce a defined set of “protected characteristics” and “prohibited actions” that apply, with minor exceptions, across all the equality strands. The 2010 Act will also impose an overarching equality duty on a range of public authorities.
4. Nine separate protected characteristics are identified in the 2010 Act; the six with which the Council will already be familiar (sex; race; disability; sexual orientation; religion or belief; and age) from existing anti-discrimination legislation and three derived from that legislation (marriage and civil partnership; gender reassignment and pregnancy; and maternity).
5. The 2010 Act provides standard definitions of prohibited actions which embrace direct discrimination, indirect discrimination, harassment and victimisation, all of which largely reflect the present law. There are now two additional forms of disability discrimination: discrimination arising from disability and failing to make reasonable adjustments.
6. The new public sector equality duty will apply across the six main equality strands, in place of the differing duties that currently apply in respect of

gender, race and disability. The core duty broadly reflects existing legislation, but implementation is likely to be different with an expectation that equality objectives will be developed in place of equality schemes.

7. Much of the Equality Act 2010 is a restatement of existing law and some elements of that existing legislation remains in force on a transitional basis.
8. There are two main areas where change will affect HPC's work; firstly as an employer and secondly as a body exercising public functions.
9. The first area relating to HPC as an employer will be covered in the day to day work of the HR department. The employee handbook and HR policies have been or are being reviewed and updated to comply with the 2010 Act.
10. Guidance from the previous government indicated that "production of an equality scheme is not necessarily the most effective way to integrate equality into the mainstream business planning cycle" but made clear that public bodies would not be prevented from publishing such schemes if they chose to do so. Although not previously obliged to publish such a scheme, HPC has always maintained a policy to set high standards in relation to equality and diversity which far exceed our statutory obligations. Accordingly, it agreed and published its Equality and Diversity Scheme in December 2007. This was subsequently updated in May 2008. The Scheme has been periodically reviewed to ensure compliance and provide Council with progress against objectives.
11. In order to ensure compliance with the 2010 Act as a body exercising public functions, the current HPC Equality and Diversity Scheme (a copy of which is attached) needs to be reviewed and decisions reached on whether it reflects best practice in respect of obligations under the 2010 Act.
12. The 2010 Act will not be fully in force until 2013 and best practice across public sector is still developing. It is therefore proposed that the Executive be tasked with reviewing the existing scheme and reporting its preliminary findings to the Council by September 2011.

Decision

The Council is invited to instruct the Executive to review the HPC Equality and Diversity Scheme and report its preliminary findings to Council by September 2011.

Background information

7 October 2009 Council paper entitled "Equality and Diversity Scheme Action report."

Resource implications

This work will be undertaken within existing resource.

Financial implications

Some legal advice may be required in which case a cost for this will be incurred.

Appendices

- Equality and Diversity Scheme as agreed in May 2008.

Date of paper

17 March 2011

Equality and Diversity Scheme

Introduction

1. The Health Professions Council (HPC) is the statutory regulator of thirteen health professions. Its primary function is to protect the public and it does so by:

- setting standards;
- approving programmes of education and training;
- registering health professionals; and
- investigating and adjudicating allegations about their fitness to practise.

2. In the course of doing so we interact with a diverse range of people, including:

- the public, especially complainants or witnesses in fitness to practise proceedings;
- registrants and potential registrants;
- education and training providers;
- health care providers, professional bodies, consumer groups and other partner organisations; and
- our employees and the “partners” who carry out tasks on our behalf.

Legislation

3. In recent years, UK government policy has moved from legislating to ensure that public bodies treat all people they impact equally; to legislation to ensure that public bodies positively promote a diverse and inclusive society.

4. We are required to meet the general duties under relevant equality legislation, including:

- Race Relations Act 1976;
- Disability Discrimination Act 1995

5. The legislation also requires some public bodies to meet certain ‘specific duties’ such as publishing a scheme. We are not one of those bodies but decided that, as part of good practice, we would go beyond what the law requires and publish an equality and diversity scheme. This scheme describes the steps we have taken and will

take in order to ensure that we do not discriminate against people on the basis of:

- Disability
- Age
- Gender
- Sexual orientation
- Race
- Religion

6. The scheme builds on our statements of our policy for each of these groups (which are set out overleaf), but is a single scheme, rather than a series of schemes for each of those groups, as many of the steps we might take to avoid or mitigate any adverse impact are relevant to all of them.

Race Equality Policy

This policy is specific to issues relating to race and ethnicity.

The Race Relations Act 1976 makes it unlawful, without justification, to discriminate on grounds of race and, as amended by the Race Relations (Amendment) Act 2000, places a duty on public authorities to promote race equality.

HPC is committed to providing equal access to employment and the services it provides and will not discriminate on the grounds of race, colour, nationality, ethnic origin, cultural background or religion (where the religion is defined as a racial group).

HPC will:

- work with representatives of ethnic and racial groups to ensure that HPC's services meet their needs and to improve access to those services;
- promote access to information, services and decision-making, where appropriate, through the use of translation and interpretation services;
- welcome and encourage job applications from people from ethnic minority backgrounds;
- ensure that allegations of racial discrimination and harassment are investigated thoroughly, speedily and with sensitivity.

Disability Equality Policy

This policy is specific to issues relating to disability.

The Disability Discrimination Act 1995 applies to HPC in its capacity as an employer, service provider and as the “qualifying body” for those it regulates. The Act makes it unlawful, without justification, to treat disabled people less favourably or to subject them to discrimination or harassment.

The Act defines disability as a physical or mental impairment which has a substantial and long-term adverse effect upon a person’s ability to carry out normal day to day activities, but HPC also recognises that society’s attitudes towards disabled people are one of the main barriers to ensuring that disabled people have equal rights of access to services and employment.

HPC is committed to providing equal access to employment and the services it provides and will not discriminate on the grounds of disability.

The HPC will:

- work with representatives of disabled people to ensure that HPC’s services meet their needs and to improve access to those services;
- promote access to information, services and decision-making through, for example, the use of interpretation for the hearing impaired, the use of Braille etc;
- ensure that, so far as possible, HPC events are held in premises which have appropriate facilities for disabled people;
- welcome and encourage job applications from disabled people;
- undertake, wherever possible, to retain employees who experience disability, by making reasonable changes to their duties or working environment;
- ensure that allegations of discrimination and harassment on the grounds of disability are investigated thoroughly, speedily and with sensitivity.

Gender and Sexual Equality Policy

This policy is specific to the concerns of men, women, bi-sexual people, gay men, lesbian women, transgender people and those who are undergoing or who have undergone gender re-assignment.

The Sex Discrimination Act 1975 makes it unlawful to discriminate without justification on grounds of gender and the Sex Discrimination (Gender Reassignment) Regulations 1999 extend the protection provided by that Act to those undergoing or who have undergone gender reassignment. The Equality Act 2006 makes it unlawful, in the exercise of public functions, to discriminate on the grounds of gender or sexual orientation.

HPC is committed to providing equal access to employment and the services it provides and will not discriminate on the grounds of gender, gender reassignment or sexual orientation.

HPC will:

- work with representatives of gay, lesbian, bi-sexual and transgender people to ensure that HPC's services meet their needs and to improve access to those services;
- confront homophobic attitudes, behaviour and language and encourage understanding of individual rights and attributes;
- encourage a culture of openness about sexual orientation and gender whilst maintaining the right to privacy;
- ensure men and women are paid the same for doing work of equal value and that flexible working policies apply equally to men and women, enabling them to make personal choices about their parenting, caring and work roles;
- ensure that allegations of discrimination and harassment on the grounds of gender, gender reassignment or sexual orientation are investigated thoroughly, speedily and with sensitivity.

Religion and Belief Equality Policy

This policy is specific to the concerns of people from different faith groups.

The Equality Act 2006 makes it unlawful to discriminate, without justification, on grounds of religion or belief by treating a person less favourably or by subjecting them to victimisation or harassment.

HPC is committed to providing equal access to employment and the services it provides and will not discriminate on the grounds of religion or belief.

HPC will:

- ensure cultural and religious festivals, holidays and rights of worship are acknowledged and recognised across the organisation;
- where reasonably practical, ensure events and hearings are not scheduled on cultural or religious festivals so as to prevent people from attending;
- ensure leave is not unreasonably withheld from employees who may wish to celebrate cultural and religious festivals;
- not impose dress restrictions on employees which may be discriminatory, unless such restrictions can be objectively justified in terms of meeting a legitimate health and safety or business aim;
- ensure that allegations of discrimination and harassment on the grounds of religion or belief are investigated thoroughly, speedily and with sensitivity.

Age Equality Policy

This policy is specific to the concerns of people of all ages and in particular younger and older people.

The Employment Equality (Age) Regulations 2006 make it unlawful to discriminate without justification on grounds of age in employment and vocational training. Age discrimination occurs because assumptions are made about older and younger people that are based on inaccurate, outdated and inappropriate stereotypes.

HPC is committed to providing equal access to employment and the services it provides and will not discriminate on the grounds of age.

HPC will:

- encourage and support activity which is aimed at eliminating ageist attitudes and practices;
- ensure that, in providing its services, it identifies and addresses the specific needs of different age groups, particularly older people and children;
- seek to employ a mixed-age workforce that includes older and younger people;
- where circumstances permit, support employees who wish to work beyond the mandatory retirement age of 65, in order to retain their knowledge, skills and experience in a manner which benefits both parties;
- ensure that allegations of discrimination and harassment on the grounds of age are investigated thoroughly, speedily and with sensitivity.

Developing a scheme

7. Our work in producing a scheme was led by a project team with participation drawn from our Executive Management Team and managers across the organisation. The work was led by a project lead and managed by a project manager.

8. Our first step in producing a scheme was a screening process carried out by the project team.

9. We asked the head of each directorate or department to detail their processes.

10. This was screened by the project team in partnership with the directorate / department head. The project team:

- identified which functions were more relevant than others to meeting the general duties and to eliminating discrimination generally;
- prioritised those functions;
- identified those areas of work already undertaken and in the workplans of directorates and departments in the coming financial year which support the aims of the equality and diversity scheme;
- identified initial action points; and
- identified where further consultation – both internal and external – might be desirable.

Arrangements for training of employees, council members and partners

11. Early on in the development of the scheme, the members of the project team, and our Executive Management Team received training in equality and diversity issues.

12. We have also held training in equality and diversity issues for council members and for some of the 'partners' who carry out work on our behalf.

13. We have started a rolling programme of training in equality and diversity issues for existing and new employees.

Collection of demographic data

14. An important ongoing action point identified in the scheme is the collection of demographic data.

15. In April 2007, we began collecting demographic data from witnesses and registrants involved in our fitness to practise process. This involved sending an equality monitoring form to complainants

and registrants at an early stage in the course of dealing with a complaint.

16. We already collect demographic information from applicants for employment and new employees and will continue to do so. We currently collect the following information:

- Gender
- Age
- Disability
- Race/ Ethnicity

We currently collect the following demographic information about registrants:

- Gender
- Age
- Nationality

17. In order to be sure that it is necessary to collect additional information, we plan to take a pragmatic approach, before deciding whether it is necessary to collect further data.

18. As detailed in the action points, we will first ask our Finance and Resources Committee to consider an analysis of the demographic data we hold for applicants and employees.

19. We will then ask our fitness to practise committees to consider an analysis of the data collected in the first year from registrants and complainants involved in our fitness to practise process.

20. Analysing this data will help us understand how our processes are working and potentially reveal further steps we could take to mitigate or eliminate any adverse impact.

21. Following this we will decide whether we need to consider extending our data collection to the general registrant population. This could include adding a monitoring form to all new application forms and, potentially, considering whether we should begin to collect data from existing registrants.

Consultation and involvement

22. We have used the following methods to contact and involve organisations and individuals in the development of the scheme.

Employee involvement

23. Heads of directorates and departments were involved in putting together the scheme, in addition to the members of the project team.

24. We also established an internal working group of ten employees. This comprised of nine volunteers drawn from across the organisation, and a member of the project team. The composition of the internal working group broadly represents the diversity of employees.

25. The internal working group will perform an important role in helping to fulfil the action points in the scheme.

26. For example, the internal working group have begun work by starting to impact assess human resources / partners policies.

27. Early drafts of the scheme were also considered by the middle management group (comprising of representatives drawn from each department) and the executive management team.

28. We will also consult with the wider employee population where appropriate. We routinely consult with employees when we make amendments to human resources policies.

External consultation and involvement

29. We intend to take a pragmatic and targeted approach to external consultation and involvement. We will identify where further consultation or involvement is necessary. In doing so we will consider whether consultation would be proportionate to the importance of the process and the extent of the possible or perceived adverse impact identified.

30. In the scheme, there are a number of action points which involve seeking external input on specific tasks. For example, we say that we will continue to involve outside individuals and organisations in reviewing our publications and in reviewing the accessibility of our offices.

31. At the end of the lifetime of the scheme, we will review the effectiveness of this approach. This might include considering whether a different approach to achieving external involvement is necessary.

Ongoing monitoring of action points and equality duties

32. Each individual department will be responsible for meeting the action points detailed in the scheme. Monitoring of the action plan will be undertaken by the project lead and project manager, with the project team.

33. As detailed in the action points, departmental work plans will now include an equality impact assessment to ensure that the equality implications of ongoing work are considered. These assessments will be considered by the project team on a periodic basis to ensure that all implications are considered and accounted for.

34. Our ongoing monitoring will consider not only whether any new or existing policies and processes have a negative impact on any group, but also whether there are opportunities for achieving a more positive impact.

35. Other ways of monitoring our progress are detailed in the action points, including regular scrutiny of information by our Council and Committees. For example, we say that our Finance and Resources Committee should consider demographic information collected from employees and applicants each year and further actions may arise from this consideration.

36. This scheme will run for three years. We will publish progress reports each year. These will be scrutinised by our Council prior to publication.

Further information

37. We would welcome any questions or feedback about our scheme.

38. If you have any questions or comments please contact us:

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