

The Equality Bill: what it means for the advice sector

Nony Ardill – Legal Policy Adviser

Age Concern England

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Some background.....

- The Equality Bill has had a lengthy gestation!
- ‘Single equality bill during the lifetime of this parliament’ – an election pledge in 2005
- After extensive consultation, Discrimination Law Review Green Paper in June 2007
- June/July 2008, Government announcement of Equality Bill’s main provisions
- Bill in 2009 Queen’s speech – due in April....

Key provisions of Equality Bill

- **Strengthening the law**
 - Outlaw age discrimination in goods and services
 - Increasing transparency by banning secrecy clauses on pay
 - Extending scope for positive action, if two equal candidates for the same job
 - Employment Tribunals can make wider recommendations in discrimination cases

Key provisions in Equality Bill

- **Streamlining the law**
 - Bringing nine pieces of legislation into same Act
 - Creating single integrated public sector equality duty, extending to age, sexual orientation, religion and belief, gender reassignment (plus three existing strands)
 - Simplifying definition of disability discrimination (NB *Coleman* and *Malcolm*)

What is *not* in the Bill

- No over-arching purpose clause for the Bill
- No extension of protection to carers (but will change law to implement *Coleman*)
- No protection against discrimination on grounds of genetic predisposition, caste, Welsh language

Still to be resolved...

- Possibility of allowing discrimination claims on multiple grounds
- Possibility of allowing representative claims (by EHRC, trade unions etc)
- Duty to have regard to socio-economic factors?

Non-legislative measures

- Helping public bodies to use their purchasing power to deliver equality outcomes through procurement
- Working with the business/private sector – possible equality kitemark?
- Funding to support trade union equality reps
- National Equality Panel – report later in 2009

Integrated Equality Duty

- General duty on the face of the Bill applying to all public authorities
- Specific duties in secondary legislation, applying to listed authorities
- Equality proofing will be built into all public authorities' employment practices, business planning and all aspects of service delivery
- Duty will make it clearer what outcomes it's designed to achieve

Age Discrimination in Goods, Facilities and Services (GFS)

- Extensive evidence in Age Concern's report: '*Age of equality?*' (May 2007)
- Health and social care: no real disagreement that age-based rules and practices exist
- Age discrimination rife within motor and travel insurance; evident in other financial services
- Also age discrimination by media, holiday companies, golf clubs, in jury service rules
- BUT some age based rules can be justified

Outlawing age discrimination

- Age Regulations 2006 – employment/training
- Equality Bill will outlaw age discrimination in GFS and public functions - **new legal rights for older people (NB children excluded)**
- Legislation will not prevent certain age-based differences in treatment in products or services where this is objectively justified
- But Regulations will set out detail, and deal with exemptions

Age GFS regulations

- Further consultation on the design of the legislation (insurance industry is hostile)
- Transition period to allow businesses and public authorities to prepare for the new law
- Concerns about delay – Dept Health is trying to buy time!
- Danger of being overtaking by general election.....

Exemptions/concessions

- Legislation would preserve:
 - free bus passes for the over-60s and discounted rail travel for young people
 - priority flu vaccinations for over-60s
 - Age-based differences in financial services, if based on evidence
- Problem – private sector offering age-based discounts as loss leader
- Holidays/housing for specific age groups?

Procurement

- Public sector currently spends £175 billion on contracts with private/voluntary sectors
- Real scope for Public Sector Duty (PSD) to give public authorities leverage on equality
- Existing PSDs require public bodies to have due regard to equality via procurement
- Government Equality Office trying to strengthen this link – working with Office of Government Commerce (OGC)

OGC: 'Make Equality Count'

- Consultation with users at the planning stage
- Defining requirements/outcomes at specification stage
- Award criteria – equality may be relevant
- Excluding bidders for breaching equality laws
- Contract conditions relating to contract performance
- Relationship management with suppliers

Implications for advice sector

- Getting ahead of the game – prepare for seven strand public sector duty!
- Clauses in contracts likely to require more monitoring of services – and positive action to deal with under-represented groups?
- Equality kite-mark?