

Towards Inclusion – Civil Rights for Disabled People – Questionnaire

Please use this form when responding to *Towards Inclusion*. If making comments, you may continue on a separate sheet of paper if you wish. The completed form and your response may be made public unless you indicate otherwise.

Please tick this box if you wish your response to be confidential

Please return the completed questionnaire by Friday 8 June 2001 to:

DRTF Consultation
Freepost CY 1199, PO Box 2001
Burgess Hill, RH15 8BR

Personal information

To assist us in the collation and analysis of responses, please provide us with the following information, using block capitals:

Name
Organisation
Position in Organisation
Address

Please place a tick next to the **one** category (i. – xii.) which best describes the capacity in which you are replying:

- | | | | |
|------------------------------------|--------------------------|---|--------------------------|
| i. Employer | <input type="checkbox"/> | ii. Self-Employed | <input type="checkbox"/> |
| iii. Service Provider | <input type="checkbox"/> | iv. Trade Union | <input type="checkbox"/> |
| v. Body Representing Employers | <input type="checkbox"/> | vi. Body Representing Service Providers | <input type="checkbox"/> |
| vii. Voluntary Organisation | <input type="checkbox"/> | viii. Individual Disabled Person | <input type="checkbox"/> |
| ix. Individual Non-Disabled Person | <input type="checkbox"/> | x. Local Authority | <input type="checkbox"/> |
| xi. Other Public Body | <input type="checkbox"/> | xii. Other (please specify) | <input type="checkbox"/> |

- If you employ people, do you employ:
- | | | |
|----------------------------------|-------------------------|--------------------------|
| (please tick the correct answer) | a. 15 or more people | <input type="checkbox"/> |
| | b. fewer than 15 people | <input type="checkbox"/> |

Definition of disability

1. Do you agree that HIV infection should count as a disability under the Disability Discrimination Act (DDA) from when it is diagnosed? (*Para 3.11*)

Yes No No view either way

Comments

2. Do you agree that people with cancer should count as disabled under the DDA from the time the cancer is diagnosed as being likely to require substantial treatment? (*Paras 3.11 – 3.12*)

Yes No No view either way

Comments (We would particularly welcome your views on the definition of substantial treatment – ie. “treatment which is more than minor or trivial”. This would include not just in-patient treatment but also out-patient treatment where the patient has to return because the original treatment has not proved successful or further treatment is required)

3. Do you agree that people who are registered with a local authority as blind or partially sighted and people who are certified with an ophthalmologist as blind or partially sighted should be conclusively presumed to meet the DDA definition of disability? (*Para 3.14*)

Yes No No view either way

Comments

Employment

4. Do you agree that the Government should remove the DDA provision which means that employers can justify failure to make a reasonable adjustment? This defence can be covered by the requirement for only **reasonable** adjustments to be made. (*Para 3.26*)

Yes No No view either way

Comments

5. Do you agree that the list of examples of DDA adjustments that employers might make should be extended to include – “training in disability issues or in the use of equipment” and “providing support or access to external support”?
(Para 3.26)

Yes No No view either way

Comments

6. Businesses with fewer than 15 employees are currently exempt from the DDA’s employment provisions. Do you agree that all small employers (including anyone taking on their first employee) should be covered by the employment provisions from October 2004? This is the same date that businesses of all sizes providing services to the public would also be covered by the final elements of the DDA duties on service providers.
(Para 3.31 – 3.32)

Yes No No view either way

Comments (We would welcome your views on what advice and information small employers might require prior to their being brought into coverage of the DDA’s employment provisions)

7a. Do you agree that business partners, and people who are setting up as business partners, should be covered by the employment provisions of the DDA? (Para 3.34)

Yes No No view either way

7b. Do you agree that the cost of adjustments for disabled partners should be shared by **all** the partners in the partnership? (Para 3.34)

Yes No No view either way

Comments

8. Do you agree that police officers should be covered by the employment provisions of the DDA? (Paras 3.34 – 3.35)

Yes No No view either way

Comments

9. Do you agree that prison officers should be covered by the employment provisions of the DDA? (*Paras 3.34 – 3.35*)

Yes No No view either way

Comments

10. Do you agree that fire-fighters should be covered by the employment provisions of the DDA? (*Paras 3.34 – 3.35*)

Yes No No view either way

Comments

11. Do you agree that barristers in chambers and barristers' pupils should be covered by the employment provisions of the DDA? (*Para 3.34*)

Yes No No view either way

Comments

12. Do you agree that in Scotland, advocates' pupils should be covered by the employment provisions of the DDA? *(Para 3.34)*

Yes No No view either way

Comments

13. Do you agree that members of county, district and London borough councils should be covered by the employment provisions of the DDA? *(Para 3.34)*

Yes No No view either way

Comments (We would welcome your views on whether parish councils should also be covered)

14. Do you agree that employees on board a ship, aeroplane or hovercraft registered in Great Britain should be covered by the employment provisions of the DDA (unless they do their work entirely outside Great Britain)? *(Para 3.34)*

Yes No No view either way

Comments

15. Do you agree that the Government should amend the DDA so that tribunals can consider former employees' claims of disability discrimination which has taken place within six months of the end of employment? The alleged discrimination would have to have arisen directly out of the employment. Claims about discrimination which occur after 6 months could be considered if it was just and equitable to do so. (*Paras 3.39 – 3.40*)

Yes No No view either way

Comments (We would welcome any views you may have on what criteria might be provided to tribunals to take into account when considering the justice and equity of extending the 6-month time limit for considering claims of disability discrimination – eg. length of time since employment; nature of discrimination; alleged damage caused)

16. Do you agree that the Government should take the power to bring a range of voluntary workers into the DDA? This power would be used only if necessary. (*Para 3.42*)

Yes No No view either way

Comments

17. Do you agree that public bodies should be placed under a legal duty to promote equality of opportunity for disabled people? (*Paras 3.44 – 3.45*)

Yes No No view either way

Comments (We would welcome views on whether public bodies should be able to focus their efforts on specific groups of disabled people, or simply have to apply the duty to all disabled people. We would also welcome views about how public bodies might apply the duty given the wide range of types and severity of disability)

18. Do you consider that local authorities should be allowed, if they wish, to appoint from a shortlist made up exclusively of disabled applicants who meet the relevant competencies – with a reasonable adjustment if necessary – and not interview suitable non-disabled candidates? (*Para 3.49*)

Yes No No view either way

Comments (We would welcome views you may have about the fact that sometimes better qualified non-disabled people who apply might not be short-listed or interviewed. In addition, please comment on what safeguards might be needed to prevent misuse or unfairness in such positive action schemes)

19. Do you agree that employment tribunals should be able to **order** re-instatement or re-engagement under the employment provisions of the DDA? Currently, they can only **recommend** re-instatement or re-engagement. *(Para 3.51)*

Yes No No view either way

Comments

20a. Do you agree that the time limit for issuing a DDA questionnaire by disabled people should be extended to 4 weeks? The questionnaire procedure allows disabled people to ask why a person, such as an employer, may have discriminated against them. Currently, a questionnaire must be issued within 3 weeks of a complaint being made to a tribunal about an alleged incidence of discrimination. *(Para 3.51)*

Yes No No view either way

20b. Do you agree that there should be a time limit for an employer to reply to a questionnaire of within 8 weeks of it being issued? Currently there is no time limit. *(Para 3.51)*

Yes No No view either way

20c. Do you agree that tribunals should be **required** to draw any inferences that are just and equitable if someone fails to reply to a questionnaire? Currently, tribunals are **allowed**, but not **required**, to do this. *(Para 3.51)*

Yes No No view either way

Comments

21. Do you agree that disabled people should have the right to complain to Employment Tribunals about discrimination by managers or trustees of an occupational pension scheme? Currently, they can complain to the Pensions Ombudsman. *(Para 3.60)*

Yes No No view either way

Comments

22. Do you agree that it should be unlawful under the DDA for employers to instruct or pressurise other people to discriminate and that the Disability Rights Commission (DRC) should be able to take action in such situations? *(Para 3.66)*

Yes No No view either way

Comments

Access to goods, facilities and services and sale, letting and management of premises

23. The DDA provisions dealing with the disposal of residential premises has an exemption for small dwellings with fewer than six occupants in addition to the occupier and their family. Do you agree that the Government should create a reserve power, to be used only if shown to be necessary, to reduce the exemption figure below six persons? *(Para 3.72)*

Yes No No view either way

Comments

24. Discrimination is already unlawful where public authorities are providing services to members of the public. Do you agree that discrimination against disabled people should be made unlawful if public authorities do it when they are exercising other public functions? (*Para 3.79*)

Yes No No view either way

Comments (We would particularly welcome views on whether the duty should be modelled on DDA discrimination as it applies to employers or to service providers or in some other way)

(We would also like views on issues which might arise with a duty of reasonable adjustment, eg. factors to be taken into account in considering what is 'reasonable')

(We would also like views on which functions of public authorities may need to be excluded – for example the Race Relations Act excludes functions such as aspects of the immigration service and the judicial and legislative acts of a court or tribunal)

25. Do you have views on whether people who let or manage premises should be covered by the duty to make reasonable adjustments – specifically adjustments to policies, practices and procedures and the provision of auxiliary aids and services? (*Para 3.83*)

Comments

26. Do you have views on the factors which should be taken into account when deciding on whether or not it would be reasonable for a landlord to refuse to let a disabled tenant make changes to physical features of the premises? (*Para 3.83*)

Comments

Barriers in the provision of services and equipment to disabled people

27. Please list the barriers you feel exist in the provision of services and equipment to disabled people by Government Departments and agencies. Please comment on how these might be removed. (*Paras 3.84 – 3.89*)

Comments

Other recommendations

28. We welcome comments on any other recommendations and the report in general, especially practical suggestions for implementation. Your comments will be passed on to the relevant Department.

Recommendation
number

Comments

Thank you for taking the time to complete this questionnaire.

Code of Practice on written consultation

All UK national public consultations are required to conform to a set of criteria. The criteria are as follows:

Criterion 1: Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.

Criterion 2: It should be clear who is being consulted, about what questions, in what timescale and for what purpose.

Criterion 3: A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.

Criterion 4: Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

Criterion 5: Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

Criterion 6: Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.

Criterion 7: Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

In conducting this consultation exercise these criteria have been and will be followed.

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