

AGENDA ITEM NO. 6(A)

WARWICK DISTRICT COUNCIL

TO: HOUSING COMMITTEE - 13th MARCH, 2000

SUBJECT: HUMAN RIGHTS ACT, 1998

FROM: HOUSING

1. Purpose of Report

- 1.1 To brief the Committee on the implications of the Human Rights Act for Housing, which will come into force on the 2nd October, 2000.

2. Background

- 2.1 The Human Rights Act implements most of the European Convention on Human Rights, which was signed in November 1950. The aim is to place a new respect for rights and responsibilities at the heart of law and practice throughout public services and can be seen as being a key strand of the Government's modernising agenda.

3. Interpretation of the Act

- 3.1 The Act introduces an obligation on public authorities to ensure policies and practices are compatible and consistent with the Convention rights. To act or propose to act in a way which is inconsistent with these rights will be unlawful, unless the public authority could not have acted differently as a result of one or more provisions of primary legislation.
- 3.2 While there is no precise definition of 'public authority', the Act covers all organisations whose functions are deemed to be of a public nature. This includes Local Authorities, the courts, the Police and all Government agencies. It is also likely that this definition includes Registered Social Landlords, Contractors and any organisations that we could be involved with in future Best Value partnerships.
- 3.3 The victim of the unlawful act can bring proceedings against a public authority (but not an individual) or can rely on the Convention rights in any other legal proceedings, criminal and civil. The court can grant such relief or remedy or make such an order within its powers as it considers just and appropriate.
- 3.4 The implications for Local Authorities are far reaching and it is considered that the risk potential for legal challenge is huge. The key areas for impact are Planning, Engineering, Social Services, Education, Housing, Equal Opportunities, Corporate/Policy and Employment issues.

4. The Human Rights Provisions most relevant to Housing

- 4.1 Of the Convention rights, those most likely to be relied upon in housing cases are illustrated below. Some clearly do not apply to the practices of this Council, but are provided simply as examples. The possible issues arising out of the Articles are by no means exhaustive and private sector legal advisors are, naturally, giving all manner of warnings about future liability of Local Authorities.

5. **Article 6 – Right to a fair trial.**

5.1 *'In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.'*

5.2 Possible issues

- Housing Benefit Review Boards and all internal review processes e.g. HARP
- Is the practice of obtaining warrants without hearing/ notice (for breach of suspended order) consistent with Article 6?

6. **Article 8 – Right to respect for private and family life**

6.1 *'Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except as such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder and crime, for the protection of health or morals, or for the protection of the rights and freedom of others.'*

6.2 Possible Issues

- While this convention does not give a right to a home, excessive delays in discharging a duty to house may be a breach.
- Restrictions of allocations to certain types of groups on the basis of private/family life may come under scrutiny (as well as Article 14).
- Practices of only granting joint tenancies to certain types of groups.
- Will it be possible to pursue a decision of intentionally homeless, if the consequence will be a family having to be split up?
- Are Anti-Social Behaviour Orders likely to breach this Article?
- What about the use of CCTV?

7. **Article 14 - Prohibition of Discrimination**

7.1 *'The enjoyment of rights and freedoms set forth in this convention shall be secured without discrimination on any ground.....'*

7.2 Possible Issues

- Are Introductory Tenancies discriminatory on the basis of property status?
- Discriminatory employment practices?

8. **The First Protocol**

Article 1 – Protection of Property

8.1 *'Every natural or legal person is entitled to the peaceful enjoyment of his possessions.'*

8.2 Possible Issues

- This right may start to feature in defences to possession actions.
- What about the use of distraint? Also relevant to Articles 6 and 8.

9. **Proposed Action before October 2000**

9.1 There is no doubt that there are areas within Housing that will need special consideration in view of the Convention rights. To this end we are currently compiling a list of all the areas within our area of work which we feel we should consider in light of the Human Rights Act. Once this list is compiled we will involve the Council's Legal Services to assist us in deciding whether any further action is appropriate.

9.2 While there is a pressing need to review all existing services, policies, decision-making processes and delivery arrangements, and this action is proposed within this report; there is also a longer term responsibility to ensure that an understanding of the Human Rights Act is built into our everyday activities.

10. **Key Issues**

10.1 The Council is committed to quality and equality in all the services it provides.

11. **Recommendations**

11.1 To approve the 'health check' work to be completed by Housing, in consultation with Legal Services.

11.2 To brief all housing staff of the Human Rights Act.

Jean Hartley
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Background Papers
Guidance notes in relation to the Human Rights Act

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**Areas in District
Affected:** All

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