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**DISABILITY EQUALITY SCHEME**

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**Responsible Cabinet Member – Councillor John Williams, Leader of the Council**  
**Responsible Director – Lorraine O’Donnell, Assistant Chief Executive**

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**Purpose of Report**

1. To present and summarise the Council’s first Disability Equality Scheme (DES), which has been drafted with full stakeholder involvement.

**Background**

2. The Disability Discrimination Act 2005 places a general legal duty on public bodies like Darlington Borough Council to do a number of things with respect to disability equality:
  - (a) promote equality of opportunity;
  - (b) eliminate unlawful discrimination;
  - (c) eliminate disability-related harassment;
  - (d) promote positive attitudes towards disabled people;
  - (e) encourage disabled people’s participation in public life;
  - (f) take steps to take account of disabled people’s disabilities, even where that involves more favourable treatment.
3. At the heart of the specific duties within the Act is a requirement for public bodies to produce a DES and to involve disabled people in its development. The DES will articulate a holistic approach to disability equality and will help the Council to respond to both the Disability Discrimination Act 1995 and the DDA 2005.
4. The Scheme will tackle discrimination in a practical way by making sure that the Council actively promotes opportunities for disabled people and makes positive changes for its employees and service users to prevent discrimination taking place. It has been developed in partnership with disabled people, Darlington Association on Disability (DAD) and other key stakeholders.
5. The Scheme will also help the Council to deal with the expanded scope of Part 3 of the Act, (Goods, Services and Facilities) that now includes the functions of public authorities. Before the DDA 2005, the Act did not apply to certain functions carried out by public authorities if these functions did not constitute the provision of a service to the public.
6. Legal compliance is not the only driver for the production of a DES. The Scheme will help the Council to take forward its wider commitment to equalities and inclusion issues, a commitment which it has published in “All Together Now: A Social Inclusion Strategy for Darlington”: To improve the life chances of those who are experiencing, and those who are

at risk of experiencing, discrimination and disadvantage.

7. This Scheme will help to do that for disabled people.

### **Information and Analysis**

8. The Social Model of Disability underpins the DDA 2005 and has been used by the steering group as the platform on which to build the Scheme. It is built on a simple concept. Disability is not caused by a person's impairment of physical, mental or sensory functioning but by the barriers resulting from an inappropriate physical environment and negative social attitudes.
9. The Scheme uses the definition of a disabled person that is contained in the DDA 1995 and extended by the DDA 2005. A disabled person is one who has a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The definition now includes people with conditions like cancer, HIV and multiple sclerosis from the point of diagnosis rather than the point at which the condition begins to have an adverse effect on the person.
10. According to census data, there is in Darlington a slightly higher than average percentage of people who stated they had a long term illness, health problem or disability (this includes mental, physical and sensory impairment) which limited their daily activities or work (20.4%, compared to a national average of 18.2%).
11. Active involvement of disabled people has been central to the development of the Scheme and will be essential in identifying the barriers faced by disabled people and helping the Council to set priorities in the future.

### **Disability Equality Impact Assessment**

12. A new approach to disability equality impact assessment is at the heart of the Scheme. Cabinet's approval of the Scheme will commit the Council to refining its approach to equalities impact assessment, first for disability and then for other equalities strands. The Scheme suggests different types of assessment according to the relevance of disability equality to the policy or action under consideration.
13. The objectives of a disability impact assessment are:
  - (a) To identify if a policy or action can be done in such a way that it will have a positive impact on disabled people.
  - (b) To identify if there is any impact on disabled people as a result of the policy or action.
  - (c) To eliminate or reduce any negative impact on disabled people.
  - (d) To promote areas of existing good practice in disability equality.
14. It is important to remember that a major impact on a small number of people can be more important than a lesser impact on a larger number. This should always be considered during the prioritisation of actions. This point will add a new emphasis to the impact assessment process and will lead to actions to tackle the first hypothetical example below being rated as

a higher priority than those to tackle the second:

- (a) A wheelchair user phones the Council to report fly-tipping in their street which is blocking a drop kerb and means that they can't cross the road to get to work. The litter is stopping the person getting to work and is thus having a massive impact on his/her life.
  - (b) Ten people phone the Council to report a small amount of paper litter near a bus stop. Although the litter is detracting from the visual amenity of the area, it is an inconvenience rather than an issue which has a major impact on those ten people's lives.
15. In future, all Council policies and actions should reflect the thinking behind the impact assessment process - from large corporate policies down to the day-to-day actions of individual employees. This builds on our existing commitment to impact assessment at the level of service planning, but a change in organisational culture will be needed to apply the principles of impact assessment more widely. The action plan suggests ways to achieve this change.
16. Any breach of the Council's general duty in respect of the DDA 2005 can be the subject of a claim for judicial review of the Council's action (or inaction). If the specific duties are not met, the Disability rights Commission can take enforcement action via the issue of compliance notices.
17. Finally, the DES contains a three-year action plan. Delivery of this is built on the assumption that the Social Inclusion budget within the Chief Executive's Office will continue at current levels (average £12.5k per annum, currently alternating £20k one year and £5k the next). This is because there are likely to be some modest costs associated with training and access to disability expertise.
18. The last word in the DES is given to some disabled people who were involved in the development of the Scheme. They put forward different views about life as a disabled person in Darlington.

## **Conclusion**

19. The appended DES is the Council's first such scheme. Although there are some similarities in approach with the Race Equality Scheme, it should be noted that the disability legislation has more and different requirements than would be the case if this were simply a race equality scheme adapted for disabled people. A key difference is that the DDA 2005 allows disabled people to be treated more favourably than others.
20. The Scheme and the actions it suggests will be refined with the development of a monitoring process and annual reporting procedure. In particular, the equality impact assessment process will be improved by learning lessons from early implementation. A new, more proportionate and relevant approach to impact assessment is likely to be the Scheme's most important legacy.

21. To meet the legal deadline of 4th December 2006, additional consultation is suggested. It is hoped that this too will lead to a better product.

### **Outcome of Consultation**

22. The empowerment and involvement of disabled people in the development of this scheme has been groundbreaking. A number of lessons have been learned about how disabled people need to be supported in order to engage fully with the Council and about how engagement activity should be differentiated to ensure participation by people representing the full range of impairments.
23. Cllr Copeland responded to an invitation extended to all disabled staff and elected members and has been directly involved in the DES steering group. Further comment from other councillors was invited at a consultation event on 19th October. However, completion of the Scheme to the national timetable whilst still ensuring full involvement of disabled people has been very challenging. The Council cannot meet its legal responsibilities under DDA 2005 without publishing a DES by 4th December 2006. It is therefore proposed that Cabinet's approval of the Scheme is subject to any other feedback received from disabled people. Following the Cabinet meeting, a consultation draft will also be circulated more widely to disabled people's organisations in and around Darlington. This is to give a wider perspective to the "hands on" involvement of around 12 people in the DES steering group. This approach is consistent with the principles of community engagement that the Council's forthcoming Community Engagement Strategy will propose. It will lead to the publication of a Scheme with even more wide-ranging support among disabled people.

### **Legal Implications**

24. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

### **Section 17 of the Crime and Disorder Act 1998**

25. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is considered that the contents of this report may indirectly lead to a positive effect based on the assumption that equalities impact assessments can help to improve the Council's approach to the community safety agenda.

### **Council Policy Framework**

26. Since the Scheme will be published as an addendum to the existing Council-approved Corporate Equalities Review and Plan, it is an amendment to an existing policy.

## **Decision Deadline**

27. For the purpose of the ‘call-in’ procedure this issue represents an urgent matter.

## **Recommendation**

28. It is recommended that Members:-

- (a) approve the appended Disability Equality Scheme, which will be available for view on the intranet and internet from 4th December.
- (b) agree that the Chief Executive sends a written acknowledgement on behalf of the Council to the DES Steering Group, recognising their valuable insights, hard work and commitment over several months.
- (c) delegate authority to the Leader and the Chief Executive to make minor changes to the Scheme as necessary after consultation, so long as these do not alter the central aims and purpose of the Scheme.

## **Reasons**

29. Recommendation (a) is supported because timely adoption of a Scheme is essential both to comply with the law and to further the principles previously adopted by the Council in “All Together Now: A Social Inclusion Strategy for Darlington”.

**Lorraine O’Donnell**  
**Assistant Chief Executive**

## **Background Papers**

Corporate Equalities Review and Plan  
“All Together Now: A Social Inclusion Strategy for Darlington”

David Plews : x 2023  
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