

ANGUS COUNCIL

PERSONNEL AND PROPERTY SERVICES COMMITTEE

28 November 2000

REPORT BY THE DIRECTOR OF PROPERTY SERVICES

No 1219/00

IMPLICATIONS OF THE HUMAN RIGHTS ACT 1998

Abstract

This report details the implications of the Human Rights Act 1998 on the services provided by the department and the actions being taken to ensure compliance.

RECOMMENDATION

The Personnel and Property Services Committee is recommended to note the contents of this report.

1 INTRODUCTION

The Human Rights Act 1998 came fully into force on 2nd October 2000 making it illegal for a public authority to act in a way which is incompatible with a convention right (Section 6(1) of said Act). As a result of this legal requirement the Chief Officers Management Team in June 2000 agreed that each Chief Officer would report on the implications of this Act on the activity of their specific departments.

2 HUMAN RIGHTS ISSUES

An audit of departmental services and procedures in terms of the implementation of the Act was undertaken in February 2000 and the findings submitted to the Department of Law and Administration for consideration and advice.

A meeting with the Department of Law and Administration took place in early November to review the findings and the original assessments were confirmed.

The majority of services provided by the department are considered not to place the department particularly at risk in respect of the Human Rights Act.

Only four services, in infrequent circumstances, could lead to non-compliance and rigorous implementation of the proposed actions will prevent this.

2.1 General estates services comprising acquisitions, disposals, leases, rent renewal and invoicing.

2.1.1 *Possible contravention of Article 1 of Protocol 1 - Peaceful enjoyment of possessions and protection of property; Article 8 - Right to private and family life, home and correspondence.*

The department, as landlord, may require from time to time access to a property to permit it to exercise its responsibilities and obligations.

The department will on rare occasions become involved in repossession proceedings to recover occupation of council property or Compulsory Purchase Orders to acquire property necessary for its strategies.

Action

Article 1: Compliance with the Act will be achieved provided all decisions are carefully recorded, due process of law is followed and the actions taken are proportional.

Article 8: Ensure that the department, through its staff, contractors and consultants, exercises its right of access in a manner which respects the tenants rights to privacy and family life, home and correspondence.

2.2 Management of complaints and enquiries

2.2.1 *Possible contravention of Article 1 of Protocol 1 - Peaceful enjoyment of possessions and protection of property; Article 8 - Right to private and family life, home and correspondence.*

The department, as landlord, may require from time to time access to a property to permit it to exercise its responsibilities and obligations.

In exceptional circumstances the department, acting as landlord, will need to take action to enforce lease terms or maintain public safety.

Action

Article 1: Compliance with the Act will be achieved provided all decisions are carefully recorded, due process of law is followed and the actions taken are proportional.

Article 8: Ensure that the department, through its staff, contractors and consultants, exercises its right of access in a manner which respects the tenants rights to privacy and family life, home and correspondence.

2.3 Management of Housing projects and tenant related issues.

2.3.1 *Possible contravention of Article 1 of Protocol 1 - Peaceful enjoyment of possessions and protection of property; Article 2 - Right to life; Article 8 - Right to private and family life, home and correspondence.*

Where the department, acting on behalf of the Housing department requires access to housing to undertake works, and where action is required particularly to ensure health and safety e.g. servicing of gas equipment.

Actions

Article 1: Compliance with the Act will be achieved provided all actions are undertaken in accordance with procedures agreed with the Housing department, agreed liaison arrangements

are employed, all decisions are carefully recorded, due process of law is followed and the actions taken are proportional.

2.3.2 **General compliance**

Where the department engages contractors and/or consultants to provide services associated with property related activities.

Where work is undertaken and matters concerning health and safety may arise.

Actions

Ensure that all contract documentation is amended in accordance with guidance from the Department of Law and Administration and that appropriate regular checking of compliance with the Human Rights Act 1998 is undertaken.

Article 2: Ensure that the department, its staff, contractors and consultants, fully meet their respective obligations as detailed in the Health and Safety At Work etc. Act as well as complementary and supplementary legislation.

Article 8: Ensure that the department, through its staff, contractors and consultants, exercises its right of access in a manner which respects the tenants rights to privacy and family life, home and correspondence.

2.4 **Maintenance and development of non-housing council properties.**

2.4.1 **Possible contravention of Article 1 of Protocol 1- Peaceful enjoyment of possessions and protection of property; . Article 2 - Right to life; Article 8 - Peaceful enjoyment of possessions and protection of property.**

Where the department, acting as landlord requires access to tenanted housing to undertake works, and where action is required particularly to ensure health and safety e.g. servicing of gas equipment.

Actions

Article 1: Compliance with the Act will be achieved provided all decisions are carefully recorded, due process of law is followed and the actions taken are proportional.

2.4.2 **General compliance**

Where the department engages contractors and/or consultants to provide services associated with property related activities.

Where the department, on behalf of the council, is responsible for the structure and infrastructure all non-housing council properties and the consequent health and safety of occupants.

Where work is undertaken and matters concerning health and safety may arise.

Actions

Ensure that all contract documentation is amended in accordance with guidance from the Department of Law and Administration and that appropriate regular checking of compliance with the Human Rights Act 1998 is undertaken.

Article 2: Ensure that the department, its staff, contractors and consultants, fully meet their respective obligations as detailed in the Health and Safety At Work etc. Act as well as complementary and supplementary legislation.

Article 8: Ensure that the department, through its staff, contractors and consultants, exercises its right of access in a manner which respects the tenants rights to privacy and family life, home and correspondence.

3 FINANCIAL IMPLICATIONS

There are no financial implications specific to this report.

4 CONSULTATION

The Chief Executive, Director of Law & Administration and the Director of Finance have been consulted in the preparation of this report.

5 CONCLUSION

The introduction of the Human Rights Act 1998 does not present many significant difficulties for the operations of the department, the services it provides and the procedures it employs provided the actions detailed are fully implemented.

BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing the above report.

M G Lunny
Director of Property Services