

DWP Select Committee Enquiry into the Equality Bill: What steps should DWP take to achieve greater equality? UNISON's response

UNISON is Britain and Europe's biggest public sector union with more than 1.3 million members. Our members are people working in the public services, for private contractors providing public services and in the essential utilities. They include frontline staff and managers working full or part time in local authorities, the NHS, the police service, colleges and schools, the electricity, gas and water industries, transport and the voluntary sector. Over 70% of our members are women; many are low paid or work part time. We organise more black workers than any other organisation and have actively contributed to key debates on tackling racism and promoting community cohesion.

UNISON is pleased to offer its views to the above consultation. We have had, from our creation in 1993, an embedded autonomous structure for under represented groups (disabled, black, women and lesbian, gay, transgender and bisexual, young and retired) members. This extends to all levels of our structures. Nationally we have a bespoke structure of disabled members who advise the union on policy matters, it is unique in that it deliberately involves members who are disabled and black, lesbian gay bisexual and transgender, women and Deaf people (who's first language is British Sign Language). Women make up two thirds of UNISON's membership; our members were involved in this consultation.

We welcome the Equality Bill's intention to simplify legislation, extend protection to other disadvantaged strands and strengthen enforcement. We believe the following measures should be included in legislation

Disability

1. We do not believe it is necessary to have a definition of a disabled person within future legislation but that the model contained within existing provision on race and gender should be used i.e. that the claim of discrimination should bear witness to the disability status of the claimant. To protect some disabled people from discrimination but not others because their impairment is less significant only serves to create a hierarchy that perpetuates discrimination of a vulnerable section of our society; our vision for the Bill is one that recognises the social model rather than the medical model which perpetuates the notion that disabled people are citizens broken by their medical condition.
2. We embrace and welcome the proposal for an EU Equality Directive and view this as a genuine opportunity to promote social and economic

mobility for under represented and disadvantaged citizens of Europe. We believe that all groups should enjoy protection in terms of goods, facilities and services.

3. Retain the key principles of the public authority equality duties on disability, gender and race, with new provisions introduced on grounds on sexual orientation, gender reassignment, religion and belief, age and for people with caring responsibilities.
4. Continue to promote disabled people into public life and introduce new measures that are relevant and proportionate for other under – represented groups.
5. Develop practical schemes to enable people to remain economically active. This includes expansion of the current Access to Work Scheme (AtW), child care support such as affordable and locally accessible child care, extended rights to request flexible working and training programmes to assist in particular the BME community's skills base and career potential.
6. Promote the AtW Scheme through national and local media.
7. Provide AtW support to unemployed disabled job seekers.
8. Simplify of the process for getting AtW.
9. Increase funding through Individual Budgets so that disabled people can have greater control in their lives do not do so at the expense of workers who are on poor pay and conditions, including training and career opportunities.
10. Recognise the logistical barriers of including AtW in Individual Budgets as set out in the Social Policy Research Unit findings.
11. Develop systems that support disabled people to manage their own care packages.
12. Improve building design standards.
13. Strengthen the enforcement of legislation by making it easier for people who experience multiple layers of oppression (such as disabled Bangladeshi women) to challenge discrimination; we feel this can be best achieved by a) expanding local resources under the auspices of the Equality and Human Rights Commission and, b) giving courts and Employment Tribunals more powers. We welcome the commitment in the Equality Bill to address multiple discrimination.

14. Ensure training and learning opportunities are fully accessible so that disabled people can compete in the labour market rather than fail under a conditionality welfare system.
15. Accept that there will be a minority of disabled people who will not be able to be economically active and make provision for their dignity and welfare.
16. Include provision for disability leave in order that people who need time off work for disability related absence are not subject to punitive employer policies on capability and sickness absence procedures.
17. Include rehabilitation leave for employees who become disabled are enabled to remain economically active whilst adjustments are being set in place.
18. Include provision for and protection against disability related hate crime.
19. Include the provision for protection from discrimination by association. The Coleman case in the European Court of Justice reinforces the prohibition of discrimination by association, and as such provides a clear role for the UK government in ensuring that carers' (many of whom are women) rights are protected in the same way that the existing duties provide protection on the grounds of race, disability and gender. In addition, we would stress that the discrimination faced by Sharon Coleman in caring for a disabled child could also apply to someone caring for an elderly relative, or with other caring responsibilities. UNISON believes that this should apply to goods, facilities and services, as well as in the field of employment.
20. Introduce professional standards and licensing of service providers such as Braillists, lip speakers, sign language interpreters, personal assistants etc
21. Maintain the current arrangements for the roles of the Equality and Human Rights Commission as the watchdog and enforcement agency on equality and the role of the Office for Disability Issues as an advisor to government departments on disability issues.
22. We are concerned about the judgement in the Lewisham vs. Malcolm case and view the House of Lords' decision as one that will cause great difficulty for disabled people and their advocates to challenge discrimination. The House of Lords decision will make it extremely difficult for a disabled person to prove disability discrimination. This can not be what Parliament intended in drafting the DDA, and this is supported by the

decision in the Clark vs TDG Ltd Novogold case. We would urge that the concept of disability related discrimination (indirect discrimination) is included in the Equality Bill and that the requirement to provide a comparator is not included. Our workplace representatives are already finding their negotiating opportunities have diminished since the judgement and that employers are hardening their position. The definition of discrimination in the Equality Bill should be one that provides greater remedies against discrimination and one that enables our workplace representatives the opportunity to resolve matters with employers easily and speedily.

Other

23. Recognise the valuable role played by the voluntary sector in providing support directly to disabled people, as an employer of disabled people and as a provider of services to disabled people by ensuring that funding is available through statutory services to support their viability. We discourage the expansion of the private sector in providing services to disabled people; no system based on profit can ultimately serve the best interests of disabled people's rights. Introduce a benefit system that meets the real costs associated with the additional cost of disability.
24. Provide a fully integrated, affordable and accessible transport system that gets disabled people, carers and people on low incomes to and from work.
25. Demonstrate commitment to the recognition of British Sign Language as the fourth indigenous language of the UK by improving communication opportunities between Deaf and hearing people by introducing British Sign Language into the National Curriculum as a language option.
26. Introduce disability rights as a core part of citizenship learning for young people.
27. Increase the stock of life-time homes to respond to anticipated age related impairment.
28. Ensure care packages are transferable geographically to enhance job-mobility.
29. The public sector should act as an exemplar for equality issues, both for service users and service providers. Furthermore, good procurement practice can extend the influence and range of high equality standards wherever public money is spent. If procurement is not to lead to a race to the bottom for quality and employment standards then good practice by public authorities and stronger regulation, including of the procurement process, must be put in place. Equality issues must be considered from

the early stages of the process right through to performance monitoring of the contract. Of primary importance is the understanding of the equality outcomes, not just the processes followed. We agree with the Women and Work Commission who said “procurement in both public and private sectors should be used to encourage diversity and equal pay practice”. In the absence of (or even alongside) a private sector equality duty, public procurement will be an important lever for the promotion of equality within the private sector. We recommend that the new legislation should make this explicit. This reflects the recommendation from the Equalities Review which called for “a specific requirement for public bodies to use procurement as a tool for achieving greater equality”.

Carers

30. The Women and Work Commission Report 2006 “Shaping a Fairer Future” identified the impact of caring responsibilities as one of the prime causes of the gender pay gap. Women carers particularly are sidelined into low paid, part-time work to fit in with caring responsibilities, often below their skill level.
31. The Commission estimated the cost to the UK economy of under-using women’s skills as £23 billion, whilst the pay gap for part time women workers stands at 36%.
32. Failure to act will inevitably result in further discrimination cases being lodged with the courts, adding to the backlog which already exists and which is now bringing the employment tribunals system to a standstill.
33. It is essential that the requirement to carry out Equality Impact Assessments (EIA) on policies and procedures continues to be included in the Single Equality Duty. The inclusion of carers in the new legislation would then provide a mechanism and a prompt for employers to consider, whilst carrying out assessments, whether the needs of carers have been taken into account and whether there is inherent discrimination in the systems which the employer operates. For example, employers should identify and to take positive steps to discourage a reliance on the long-hours culture whilst ensuring that staff choosing part-time and/or flexible working options, particularly to meet caring responsibilities, are not penalised.

Older people

34. We are concerned that remit of inquiry makes reference to opening up opportunities in employment for pensioners rather than older people. UNISON is aware that there is a public debate being undertaken with regard to older workers remaining in the workplace for longer but believes

that this should be a personal decision for each individual. This language reinforces the assumption that in the future people of pensionable age will have to work.

35. UNISON believes that the arguments used to justify positive action for other under-represented groups in the workplace apply equally to older people. Identical treatment may result in formal equality, but cannot suffice to bring about equality in practice. There is a duty on public authorities to promote equality as a core objective of all their activities and this should be applied to other employers.
36. With regard to equality in Goods, Facilities and Services (GFS), UNISON has previously raised the fact that insurers and banks use age as an actuarial factor to assess the risk profile of customers where it may not be relevant. The directive only states that the Commission intends to initiate a dialogue with financial service providers, together with other relevant stakeholders, in order to exchange and encourage best practice. We would welcome this but see no evidence of any firm outcomes as yet. The Framework for a Fairer Future – The Equality Bill refers to the establishment of a working group to help identify where age discrimination exists in the provision of financial services and the possible impact of legislation in this area. UNISON believes that the Equality Bill should include measures to ensure that age criteria are not used to restrict or deny access to GFS without any objective assessment or justification. Age must not be used as criteria to deny access to GFS where it is irrelevant, or as a proxy for a different characteristic which can be individually assessed, such as health or capacity, unless this can be objectively justified.

