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| Meeting Date: | 17 July 2007 | Open Gov. Status: | Fully Open |
| Type of Paper: | Below the line | Paper File Ref: | |
| Exemptions: | None | | |

HEALTH AND SAFETY COMMISSION

Disability and risk assessment: agreement of joint DRC/HSE guidance

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Issue

1. To approve the joint Disability Rights Commission (DRC) and HSE guidance on risk assessment and disability.

Timing

2. Urgent – to ensure publication before the DRC is subsumed into the Commission for Equality and Human Rights (CEHR) in October.

Recommendation

3. That the Commission endorses the attached guidance (Annex A).

Background

4. The DRC and HSC/E have long been concerned about the inappropriate use by some of 'health and safety' as a means of excluding people with a disability or long-term health condition from equal access to employment opportunities.
5. Findings from jointly commissioned research substantiated the concerns and helped inform the development of the DRC's 2004 Code of Practice for Employment, HSE's "Managing sickness absence & return to work" guidance and the joint DRC/HSC statement of overarching principles published in January 2007 (HSC/07/15).
6. The joint statement discharged one of two actions arising from HSC/E's Disability Equality Scheme (HSC/06/91) 2007 priority. The other will be discharged by the publication of joint guidance.

Argument

7. The guidance extends the principles of the joint statement into practice: to show businesses that health and safety and disability discrimination law can work together to **promote the employability and retention of disabled people**.
8. The guidance is deliberately concise and punchy, intending to provide both **practical advice** and **a gateway to support**. Simple checklists and case studies are provided to promote good practice. It provides links to government agencies. These cover relevant

support provisions, such as practical expertise and financial help (eg **government grants**) designed to help both businesses and disabled people with workplace adjustments, where these are necessary.

9. The guidance has been developed with due regard to the **sensible risk management** principles. Its **target audience** is diverse: businesses of all sizes, people involved in risk assessment (such as health & safety professionals, safety representatives, supervisors and managers) and disabled people, whether seeking or in work.
10. The guidance will be published as webpages. Meeting IT accessibility standards is therefore vital. HSE and DRC IT experts are involved.

Consultation

11. The guidance has been developed in partnership with the DRC and has been subject to extensive internal and external consultation.
12. Externally, it has been **warmly welcomed** by the TUC, IOSH, Remploy and a range of business stakeholders via the CBI and Small Business Forum. It has the support of a broad range of communities and disability organisations and the content has been **user-tested** by disabled people. Together with the DRC, we will also ensure the test webpages are trialled by people with a range of disabilities affecting website access. Comments included:

- “the content is very clear” - **Epilepsy Action**
- “useful, particularly to smaller firms who employ, or are considering employing, disabled people” - **Rail Safety & Standards Board**
- “if we’re doing our risk assessments right, we should already have been taking account of disabled people, so should have nothing to fear and possibly everything to welcome from the proposed guidance” - **Ericsson Services**

13. Internally, we have involved Field Inspectors, Sensible Risk Policy, Corporate Health, Better Health at Work Division (sickness absence/return to work team), Strategic Communications and ‘equal’ (HSE’s disability network) in the development of the guidance. We have also consulted Solicitors’ Office, FOD HQ, NSD and HID (including off-shore division). **All have signalled their support**. HSE’s Better Regulation Team has been consulted and acknowledges there are **no new requirements** – the guidance simply draws on existing standards and practices – and welcomes the signposts to free assistance (described in para 8).
14. Constructive feedback has helped improve the guidance. A common concern, however, is that the guidance fails to address risk assessment in relation to ‘service delivery’ i.e. duties relating to disabled visitors and customers. We have taken the decision to focus on disabled people at work in order to deliver the 2007 Disability Equality Scheme (DES) priority action and in keeping with our PSA targets. We intend to explore the value of extending the guidance to service delivery with the Commission for Equality and Human Rights, once established, and will then advise HSC.

Presentation

15. We will work with the DRC to promote the guidance externally through a targeted mailshot and joint publicity at planned key events. Stephen Alambritis, of the

Federation of Small Businesses, is a DRC Commissioner and he and others, including our own Dr Sayeed Khan, have indicated a willingness to add publicising the guidance to their existing commitments. There are likely to be opportunities for other Commissioners interested.

16. We will specifically promote the guidance amongst operational staff by ensuring its cross-reference in the operational instruction on disability at work. The instruction is currently under revision and our involvement as a stakeholder is raising internal awareness of the guidance. We will inform the wider internal community through HSE's in-house magazine Express, its weekly electronic companion e-express, and through the intranet.

Costs and Benefits

17. The costs incurred in the production of the guidance are borne by both HSE (see below) and the DRC. DRC has been the principal sponsor, having funded exploratory workshops and recent user-trials. Together we have built a network of disabled people who have volunteered to check the web version as soon as the test site is made (due early July).

18. Corporate benefits will be to:

- **deliver HSC/E's top 2007 disability equality priority**
- demonstrate HSC/E's ongoing commitment to tackling the use of health and safety as a false excuse to discriminate against disabled people
- create opportunities for future work with the CEHR in support of our public authority duty to promote equality of opportunity between disabled people and other people.

19. Societal benefits will be to help promote equality of opportunity for disabled job-seekers and workers by providing guidance to overcome perceived barriers and raising awareness of government aid. Links in this guidance support the wider Better Health at Work agenda.

Financial/Resource Implications for HSE

20. The estimated cost for HSE's involvement in the development and promotion of the risk assessment guidance is £20,000, comprising £16,000 of staff time on guidance production and internal consultation and £4,000 for publicity and event management when promoting the web resource. .

Action / Next Steps

21. The Commission is invited to endorse the joint DRC/HSE guidance. The External Diversity Team will then oversee its project management through to the autumn programme of publicity (see paragraphs 15 and 16).