Dear Sophia and Anthony,

Equality Bill: Follow up from Report Stages

During the Report Stages of the Equality Bill on 2 March, I undertook to write to Baroness Meacher and Lord Low about specific concerns they raised about alcohol marketing and the Public Sector Equality Duty respectively.

For your records, I attach a copy of these letters, which will also be copied to all that spoke during Report or Committee stages on the Bill, as well as placing copies of this letter – and the attachments in the House of Lords Library.

Yours sincerely,

JAN ROYALL
The Rt Hon the Baroness Royall of Blaisdon

The Leader of the House of Lords

Baroness Meacher
House of Lords
London
SW1A 0PW

10 March 2010

Equality Bill: age / alcohol marketing

During the 2 March Report debate on the amendments to clause 196, you raised a point about clarity in current codes and proposed legislation with regard to age and alcohol marketing and I promised to write.

Clause 13(2) replicates current employment law by permitting direct discrimination on the basis of age where this can be objectively justified as a proportionate means of achieving a legitimate aim.

I am confident that those involved in, for example, casting for alcohol advertisements are able to rely on objective justification in choosing not to cast those who are, or appear to be, under age 25. There is a clear public interest justification in play in such circumstances, which is reinforced by current advertising regulations.

JAN ROYALL
Equality Bill: Public Sector Equality Duty

During the 2 March Report debate on the amendments to clause 148, Baroness Murphy raised the fact that the specific duties will not apply to private and voluntary sector bodies and I promised to write on that point.

The public sector will be the main vehicle to take forward public policy in this area; it is right that it should show leadership in rooting out entrenched and systemic discrimination and advancing equality of opportunity. The public sector delivers public services for all.

However the private and voluntary sectors do have a part to play in this. Private companies and voluntary sector organisations will be subject to the general duty in respect of any public functions they carry out. They will therefore be required to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations when carrying out public functions. During the debate I explained that the duty to have due regard is not a question of box-ticking and that it requires the equality impact to be considered rigorously and with an open mind.

Further, if a public authority enters into a contract with a private or third sector organisation for the provision of goods, services etc it will not be absolved of its obligations under the duty and will be required to have due regard to equality considerations when making its procurement decisions. The specification should set out the equality objectives the public authority wants to achieve through the contract. The government’s proposals for specific duties in relation to a contracting authority’s public procurement functions include proposals for such authorities to consider using equality related award criteria and equality contract conditions where they relate to the performance of the contract and are proportionate. Ultimately the public authority will be liable for any non-compliance with the duty and the normal enforcement procedures will apply.

JAN ROYALL

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