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# WELCOME ...

to the *Learning Curve* training pack on the *Human Rights Act 1998*.

The long-awaited implementation of the Human Rights Act 1998 in October 2000 heralded a significant new chapter in the legal history of the United Kingdom. This new act is a major development in UK law and the legal system more broadly. What makes it so significant is that it not only has major direct implications for so many people in so many circumstances, but also indirectly affects a large number of other established pieces of legislation and even the development of brand new legislation in the future. It is clearly a landmark in legal and indeed social and political history.

The Home Secretary, Jack Straw, has been a major proponent of the development of human rights. He indicates the significance of this legal development when he comments that:

*The Human Rights Act 1998 is the most significant statement of human rights in domestic law since the 1689 Bill of Rights. It will strengthen representative and democratic government. It will do so by enabling people to challenge more easily actions of the state if they*

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*fail to match the standards set by the European Convention on Human Rights.*

*Nothing in the Act will take away the freedoms that people already enjoy. But those freedoms alone are not enough: they need to be complemented by positive rights that people can assert when they believe that they have been treated unfairly by the state, or that the state and its institutions have failed properly to protect them. The Act will guarantee to everyone the means to enforce a set of basic civil and political rights, establishing a floor below which standards will not be allowed to fall. (Straw, 1999, p. ix)*

These comments are important in spelling out fairly clearly just how important this act is and what profound and far-reaching implications its implementation has. It helps to establish clearly just how much we need to sit up and take notice of the changes brought about by this major innovation in UK law.

This pack will not tell you everything you need to know about the Act, nor will it necessarily answer all your questions. What it will do, however, is provide a good introduction to the main provisions of the Act, set it in context and help you draw out the implications for you, your colleagues and your organisation as a whole.

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The pack provides a great deal of information about the Act, its background and what it will mean to public service organisations as well as training exercises and related materials designed to help 'spread the word' throughout the relevant staff groups by providing the wherewithal to provide training sessions which should help to ensure that staff are well-informed, clear about their responsibilities and reasonably confident in carrying them out.

What the pack is *not* intended to provide is detailed legal advice or commentary. There are several texts available which provide a through analysis of the legal ramifications of this important new act (see the 'Recommended reading' section below). However, legal texts are generally written by lawyers for lawyers and can therefore be quite confusing and disheartening for people without legal training or experience. As Singh (1997) comments: 'Human rights are too important to be left to lawyers' (p. 2).

Our aim here is not to replicate the texts already available for a legal readership, but rather to explore the *application* of the Act in terms of its implications for relevant organisations, their staff, managers, trainers and advisers. What we offer, then, is a carefully guided exploration of the Act and its implications, together with a number of resources that can be drawn upon to promote learning and development on the themes and issues arising as a result of the Act's implementation.

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The Human Rights Act 1998 presents a set of major opportunities as well as challenges. We wish you well in capitalising on the opportunities and rising to the challenges.

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# LEARNING CURVE

# PUBLISHING

This pack is the first in a series of training and development resources to be developed by *Learning Curve Publishing*, a division of *Avenue Consulting Ltd*. It represents the first step in building up a library of materials to guide and support trainers, staff development officers and others involved in human resource development.

The team behind *Learning Curve Publishing* has considerable breadth and depth of experience in what can broadly be termed the 'human relations' field - training and development; management; psychology; social work and social care; nursing and health care; and organisational development. Our focus is on personal, professional and organisational development.

To find out more about *Learning Curve Publishing* or to keep up-to-date with developments, visit our website at

**[www.avenueconsulting.co.uk](http://www.avenueconsulting.co.uk)**

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*Promoting Equality* (Palgrave, 1998)

*Stress Matters* (Pepar, 1999)

*Tackling Bullying and Harassment in the Workplace* (Pepar, 2000)

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# ACKNOWLEDGEMENTS

We are grateful to a number of people who have helped in the development of this pack. Sue Thompson has contributed a great deal in a number of ways, and her efforts are very much appreciated. Michael Bishop provided useful information and offered a helpful perspective on the Act.

Preparation and development of this material have been helped by the patience, support and proof-reading skills of Julie Crompton.

Interest from training colleagues in local authorities has encouraged us to see the value and potential of the pack.

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# **DISCLAIMER**

This pack has been researched, prepared and presented in good faith, with all due care and attention. However, no responsibility can be taken for any errors or oversights.

The pack and its contents are intended as a resource to facilitate training and staff development and should not be seen as a definitive statement of the law. The pack is not a substitute for professional legal advice or guidance and should not be relied upon as such.

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# WHO IS THE PACK FOR?

The Human Rights Act 1998 applies to 'public authorities', a broad term covering any organisation or even individual who fulfils a public function or duty (the term will be defined in more detail below). So, in effect, this pack is for anyone whose work falls within that broad remit of 'public authority'.

This includes:

- local authorities;
- central government departments and agencies;
- health authorities and trusts;
- police authorities;
- the armed forces;
- the Prison Service;
- the Probation Service;
- colleges and universities;
- voluntary bodies which provide public service of some kind - the NSPCC, for example;
- private providers of social care;
- private providers of health care;
- private schools;
- NGOs - non-governmental organisations;
- courts and tribunals; and
- private companies of any description which in some way

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fulfil a public function or duty.

This last category is an interesting one as it involves making a distinction between those activities which amount to a public service or duty and those which do not. Consider, for example, Railtrack. In its work as a regulator of public safety on the railways, it is of course performing a public service function and is therefore covered by the Act and its requirements. However, in its actions as a commercial property developer it is not performing a public service and is therefore not covered by the Act as far as these activities are concerned.

Livesey (2000) outlines the situation in the following passage:

*But what is a 'public authority'? Those bodies with clear public duties are automatically public authorities under the terms of the act. These include the courts and tribunals, central government, local government and the NHS. But then so is any organisation 'certain of whose functions are of a public nature'. The Lord Chancellor has declined to define this any further on the grounds that 'it is far better to have a principle rather than a list which would be regarded as exhaustive' because 'we want to provide as much protection as possible for the*

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*rights of individuals against the misuse of power.'*  
(p. 28)

It is likely to be some considerable time before there is a large degree of clarity about those borderline areas where it remains to be seen whether or not a particular organisation constitutes a public authority.

It is also important to note the very significant fact that courts and tribunals are regarded as public authorities within the meaning of the Act. This means, in effect, that human rights issues must be taken into consideration in all court and tribunal proceedings - even where the organisation concerned is not itself a public authority.

We should also not forget that there will be a significant number of organisations which, although not public authorities in their own right, enter into commercial contractual arrangements with public authorities (recruitment agencies, for example). It is quite likely that, for many such contractual arrangements at least, it will be a requirement imposed by the public authority (as customer or client) that the providing company should agree to demonstrate a commitment to human rights (just as many such contracts include a requirement to demonstrate a commitment to equality of opportunity - indeed human rights issues may well be subsumed under equality and diversity policies).

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Clearly, then, very many organisations are affected by the Human Rights Act 1998 and would therefore do well to take on board the messages that this pack is seeking to deliver. To ignore the significance of this major development in the legal system and the philosophy on which it is based could have immense negative consequences. It would therefore be very unwise to neglect the new demands made by this vitally important Act.

Within the organisations concerned, this pack should be of particular interest and value to training or staff development officers, but should also be of help to managers across the board, particularly those that have a responsibility for policy development and review.

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# INTRODUCTION

The pack is divided into five main parts. Following this introductory section, Part Two is entitled 'Setting the context' and that is precisely what it sets out to do. It discusses the background to the Act, first by considering the important question of 'What are rights?' and then by briefly tracing the history of human rights as a legal, social and political issue. Next comes a discussion of the European Convention on Human Rights which forms the basis of the Act.

This leads into a discussion of equality and diversity, important elements of the context in which human rights issues have to be considered. This section provides a summary of the key issues relating to equality and diversity and explains how and why these matters have a bearing on the implementation of a human rights approach.

This is followed by an introductory overview of the Human Rights Act 1998 itself. In particular, we focus on the Act's aims and its implications, before looking at the Act in more detail in terms of its articles and protocols.

Part Three is entitled 'Training and development'. This section comprises more detailed information on the various parts of the Act and offers suggestions for training exercises, handouts, OHP slides and so on. This forms the main component of the pack. The Act will affect different

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organisations in different ways, and this part of the pack seeks to reflect this by providing a range of training guidelines and related resources in order to give trainers (or others using this resource) a degree of choice in terms of which issues are a priority and therefore need detailed attention and which do not require so much emphasis.

Part Four is the concluding section. It incorporates the concluding discussion, recommendations for further reading, details of relevant organisations and Internet resources, and so on.

Part Five is simply a section headed, 'Resources'. As the Act establishes itself firmly as a key part of the UK's legal systems, there will be newspaper and magazine articles and so on. This section is therefore intended as a place to store relevant cuttings, items downloaded and printed from the Internet and so on. We provide this section to encourage users of the pack to keep up to date with developments in this important new chapter in legal, social, political and professional history.