

## DTI Draft Statement of Good Practice and Questionnaire

### Introduction

The DTI first sent out its draft "Statement of Good Practice and Questionnaire" in December 2005 for consultation. Amicus provided a comprehensive response to this at this time, but despite the passing of the consultation deadline, we have learnt that the DTI has spent over a year consulting with others. On 17 January 2007 Amicus then met with the DTI and the responsible Minister, Jim Fitzpatrick MP, to further reiterate our concerns. At this meeting, Amicus clearly set out an evidenced based argument, backed by statistics, concerning the real difficulties that our members are currently going through due to the absence of an employment rights framework, such that all employees enjoy the protection of.

We also criticised this assessment process, warning that it is incomplete and will not be able to ascertain what the DTI claim to be their objective from the process, having an understanding whether it would be necessary for Section 23 rights of the Employment Relations Act 1999 to be inferred. In the meeting, and without consideration of our points, it was immediately stated that the Government would use a voluntary route for employment rights for a further two years, despite over a year having already passed.

It was then agreed that the current DTI Draft Statement of Good Practice and Questionnaire would be sent to us. This Amicus received the same afternoon as our meeting, via e-mail, which indicated to us that nothing we had said in the meeting had duly been considered for inclusion.

On reading the sent document, Amicus was totally frustrated to discover that there had been absolutely no changes made at all to the document, since its original of December 2005, pre-dating the consultation period.

In Amicus, we are struggling to understand why the DTI requested a further response from the union to this documentation having already provided a comprehensive response to the consultation on this over a year ago (see attached), which has apparently been totally ignored. Amicus does not believe that the DTI has consulted on this proposal, despite over a year passing, since there is no evidence to support that a single contribution has been considered, and not a single word of the original documentation has been changed, despite its many flaws.

Amicus is therefore finding it difficult to understand the purpose of the DTI asking us again to comment on the documentation, despite the dispute we have with it, and the process. Our main concerns remain.

### **The main points of our responses are:**

- 1. The Draft Statement of Good Practice is laid out under certain headings, each of which refers to certain employment policies which may be included. As these things are mandatory for employees under this Government's statutes, there is no rationale or evidence as to why Office Holders should be treated less favourably, and not be protected. This inequality allows for, or even enables, those with the power to inflict injustice on those without, i.e. the Office Holder. In secular employment, it would be unthinkable by this Government for employees to be without recourse, yet these ordinary workers, by title of employment status alone, are excluded this access to justice.**
- 2. There is no definite requirement for a proper and independent appeals process to achieve a just restitution to employment issues in the documentation. In the Draft Statement of Good Practice, this is so weakly requested, and audited, that the DTI is not going to be able to ascertain what is happening in practice. The issue of independence from those casting judgment in restitution forms the basis of all legal and dispute procedures in the UK . The DTI process lacks so much detail that it will result in no change for our members who's lives are being destroyed by the**

**current systems, disproportionately to those of secular employees, as our statistical evidence presented at our meeting in January 2007 demonstrated.**

- 3. The auditing system through the proposed questionnaire is so superficial and loosely worded that the answers invited will not expose any of the short-comings. A proper auditing process is needed for the DTI to build an evidence base, which closely examines the modus operandi of all policies. The current proposed questions, will reveal that all is well, whether it is or is not, and tell the DTI nothing.**
- 4. The Draft Statement of Good Practice has to be more than a statement. There has to be an independently objective group set up to monitor the process, within proper parameters, otherwise this will be a completely useless exercise who's outcome could easily be ignored. Amicus would argue that this should be independent of the DTI, and include trade unions.**

Amicus' basic concerns in the process are outlined:

#### Depth of information

The terms and policies requested for organisations to put in place are not fully comprehensive and where there is mention, the content is very superficial. From working with many denominations and faiths, Amicus has utilised policies that would fulfil the stated criteria, however we know that these do not fairly address issues of grievance, discipline or other areas, nor bring about a just system in seeking restitution, even if an "appeal process" is present. The criteria will therefore only replicate the current processes, which the DTI will be able to justify due to the weak nature of the questionnaire. For example, clear criteria is set out for resolving disputes from the Employment Act (2002), with its associated guidance, so we cannot comprehend why this level of detail is necessary for secular employment, which it is, and yet not for the faith bodies, which have only five loose guidance points on the whole disputes process.

#### The scope of the survey

As discussed, by Amicus, on many occasions, those participating in the DTI Clergy Review Group is a self-selecting group, since there has been no compulsion to participate. Even the title "clergy" is inappropriate for encouraging participation. We know that many denominations across the faiths have therefore been totally disengaged with the process to date, and this will continue under this process. This is because the survey will not reach all the denominational faith bodies and respective churches, for example. Often it is the denominations that most need to engage that sit outside. The process is too self-selecting and therefore exclusive.

#### Building an evidence base

The survey provides a very poor evidence base. The questions are so non-specific that the DTI will be unable to ascertain the impact of the policies that are in place within faith bodies. The questions are so loosely worded, for instance when asking about redundancy (Question 2e) There may be a redundancy policy which is detailed and would claim parity with one used within secular employment, or one which consists of one sentence, which gives no rights to an individual being removed from office. We fail to see how any of the questionnaire will provide an evidence base for the DTI to make any decision on the need of any Employment Rights, or not. The results will be so vague that they will be able to be interpreted any way that is wanted.

#### The way forward

In all honesty, Amicus truly believes that the whole process is poorly thought through and totally flawed. If the DTI wanted to build an evidence base, then there would have to be a far more detailed process which could not only identify the current procedures across all denominations and faiths, but also assess the effectiveness of these. One way to achieve this would be to set up a system of independently monitoring cases so that the failings in the current processes can be

identified, and proper analysis on what has to be done to change this, understood. Amicus has continued to offer to help with this, using our experience.

As far as the criteria is concerned, as stated in our response to the consultation, this still needs reviewing to remove its inconsistencies and to ensure that it is fully comprehensive, as well as being far more detailed.

Amicus believes that a small working group of the DTI, faith bodies and the trade union should be set up to amend this work, and to ensure that it has real value and use.

**Amicus – February 2007**