

The Highland Council
Communities and Partnerships Committee
28 September 2016

Agenda Item	8
Report No	CP 22/16

Update on the Public Sector Equality Duty Requirements

Report by Acting Head of Policy

Summary

The Council first published its responses to the requirements of the Public Sector Equality Duty (PSED) in March 2013 and reported on progress in March 2015. This report:

- provides a reminder of the PSED duties placed on the Council, the Education Authority and the Licensing Board, and the reporting timescales due for 2017
- gives a summary of progress against our existing equality outcomes set in 2013
- suggests an approach to review the Council's equality outcomes for the 4 year period 2017-2021

1 Introduction

- 1.1 The Public Sector Equality Duty is set out in the Equality Act 2010 and came into force in 2011. The Act recognises that some people who share a protected characteristic may suffer a particular disadvantage or have particular needs.
- 1.2 A report from the Equality and Human Rights Commission (EHRC) Scotland in 2016 shows improvement in certain outcomes but highlights some continuing areas of concern:
- Overall, educational attainment has increased, but some groups fared worse including disabled pupils, pupils from deprived communities and Gypsy/Travellers.
 - Women were more likely to hold a degree than men, but less likely to be in work, or to hold a senior position in work.
 - Ethnic minorities and disabled people were most likely to be living in relative poverty.
 - In terms of how safe people felt living in Scotland, disabled people and women were more likely to feel unsafe being alone after dark.
 - Stigma and negative attitudes persist towards people with mental health problems and Gypsy/Travellers. Hate crimes related to race were the most commonly identified crimes recorded by the police.
 - Unemployment particularly affected young people (20%), disabled people (12%), and ethnic minorities (13%) compared to the Scottish average (7%).

- 1.3 The Equality Act is currently reserved to the UK Parliament. However, the Scottish Parliament has powers to encourage equal opportunities and also the power to impose duties on Scottish public authorities. The Scotland Act 2016 will implement the 'socio-economic' duty on public authorities through the Equality Act 2010. The duty requires public authorities to exercise their functions in a manner which will assist in reducing socio-economic disadvantage. This complements the duty within the Community Empowerment Act for Community Planning Partnerships to address socio-economic inequality.
- 1.4 The Scottish Government's Programme for Scotland 2016-17 includes a range of commitments to address equality and discrimination, for example:
- establishing an Advisory Council to tackle workplace and occupational segregation and other issues relating to gender equality.
 - introducing a Gender Balance on Public Boards Bill in the coming year and promote the voluntary '5050 by 2020' partnership.
 - appointing a Race Equality Framework Adviser to help implement the actions in the Race Equality Framework.
 - consulting on reforming the Gender Recognition Act by summer 2017
 - actions to reduce the inequality experienced by disabled people.
 - building community cohesion and tackling hate crime.

2. The Public Sector Equality Duty

- 2.1 The PSED requires equality to be considered in all the functions of public authorities. This includes decision-making, the design of internal and external policies, commissioning and procurement and in the delivery of services, and for these issues to be kept under review. Appendix 1 details the requirements of the PSED and the Specific Duties that apply in Scotland.
- 2.2 The PSED aims to ensure that public authorities and those carrying out a public function consider how they can proactively contribute to a more equal society through advancing equality and good relations in their day-to-day business, and to:
- take effective action on equality
 - make the right decisions, first time around
 - develop better policies and practices, based on evidence
 - be more transparent, accessible and accountable
 - deliver improved outcomes for all.
- 2.3 The Specific Duties include requirements to publish certain information from April 2013 on a reporting cycle of either two or four years. Appendix 2 sets out the publishing timetable from 2017-2021. In March 2017, the Council, Education Authority and Highland Licensing Board as 'listed bodies' are required to:
- Report on mainstreaming the equality duty;
 - Publish equality outcomes or report progress;

- Publish employee information
- Publish pay gap information
- Publish statement on equal pay

3. Progress with meeting the reporting requirements of the PSED

3.1 The Council sets out its arrangements to meet the PSED in its Fairer Highland Plan 2012-17, and includes a commitment in the Highland First Programme to treat people fairly, with dignity and respect and to continue to work towards achieving the equality outcomes set out in the Fairer Highland Plan and will promote equality of opportunity in all its work. The Fairer Highland Plan incorporated the Education Authority which is a separate listed body. Going forward, the commitments of the Licensing Board will also be included.

3.2 **Report on mainstreaming the equality duty:** this duty requires authorities to publish a mainstreaming report which contains information on how the Council takes account of equality in its day-today activities.

The Council has published mainstreaming reports in [March 2013](#) and [March 2015](#). The mainstreaming reports summarise the use of equality impact assessments to ensure that equality is taken into account in decision making and policy development; the Council's approach to training on equality and diversity; taking an inclusive approach to engagement and consultation; in our recruitment and employment practices; ensuring services and information are accessible; and employee information. The reports include a number of case studies to illustrate activities that contribute to meeting the equality duty.

3.3 **Publish equality outcomes or report progress:** The Council agreed three overarching equality outcomes in 2013, these are shared with the Education Authority and the Licensing Board:

- People are, and feel, free to live their lives without harassment and discrimination, and can take part in community life
- People benefit from public services in a fairer way, and are able to have their say about them
- Staff feel there is an organisational culture where everyone is treated with dignity and respect

Associated with these, were a full set of 20 equality outcomes (Appendix2) to reflect priorities from engagement with local equality groups and national evidence, to address:

- Improving public attitudes and awareness
- Equality and Diversity in Education
- Tackling discrimination, prejudice and safety
- Access to employment and occupational segregation
- Participation and representation

The published outcomes and progress reports are available on our [website](#).

- 3.4 **Publishing employee information:** as required by the duties, employee information by protected characteristic is published in our mainstreaming reports in 2013 and 2015 and describes the work the Council has done to gather employment information and how this is used to deliver the general duty.
- 3.5 **Publish pay gap information;** The duty required public bodies with 150 or more employees to publish a gender pay gap figure which is the percentage difference between men's and women's average hourly pay. Information on the Council's gender pay gap has been reported to Resources Committee in 2013 and 2015 and summarised in equality progress reports.
- 3.6 **Publish statement on equal pay:** Listed bodies with over 150 employees were required to publish an equal pay statement, including information on occupational segregation. The Council's equal pay statement is published on its [website](#).

4 **Progress: key points**

4.1 The Council's equality outcomes and mainstreaming report were published in [March 2013](#), with a progress reports presented to committee in [March 2015](#). Progress on equality is also reported as part of the Council's public performance reporting. Some key actions and indicators that contribute towards our equality outcomes or mainstreaming equality are noted below. A detailed report on progress will be made in March 2017.

4.2 **People are, and feel, free to live their lives without harassment and discrimination, and can take part in community life**

- Work continues with partners to encourage the reporting of hate crimes, and domestic abuse.
- Public Performance survey shows an increased awareness of the impact of hate crime.
- A decrease in negative attitudes to prejudice from 33% in 2011 to 25% in 2015 (Citizen's Panel).
- Equality and Diversity Policy and Positive Relationships and Bullying Policy are being rolled out across Highland schools along with associated training.
- Highland was ranked 29 out of 50 entrants across GB in Stonewall's Education Equality Index in its first entry.

People benefit from public services in a fairer way, and are able to have their say about them

- Public performance surveys and budget consultations are analysed for difference in responses depending upon gender, age and disability.

- We have maintained our AA rating and improvements accessibility of the Council website are noted by Society of Information Technology Management (SOCITM). The site can be accessed more effectively from mobiles devices and accessibility features are enhanced.
- Improved levels of Gypsy & Traveller children & young people attending nursery, primary & secondary school have been maintained.
- The Council's Employability Service aims to support young people and adults not in work to progress towards and into sustained employment, and makes a particular effort to work with disabled clients, clients who are looked after or who are from a disadvantaged background.
- Customers can access the Council through a range of communication channels, face-to-face contact, telephone, and digital access is becoming increasingly accessible. Inclusive communication is also available through interpretation services.

Staff feel there is an organisational culture where everyone is treated with dignity and respect

- 2.5% increase in the percentage of highest paid 5% of employees who are women between 2010-11 and 2014-15
- We continue to take positive action to encourage women into management posts including our Women in Management Programme
- Promoting options for flexible working
- A reduction in the gender pay gap between 2013 (9.3%) and 2015 (8.6%)

5 Meeting the PSED 2017-21

- 5.1 The Fairer Highland Plan will be reviewed and revised to set out the Council's approach to meeting the Public Sector Equality Duties, taking account of any changes introduced through Regulations or guidance.
- 5.2 The commitments within the plan and the associated reports on outcomes, mainstreaming and employment information will incorporate the three listed bodies (the Highland Council, the Education Authority, and the Highland Licensing Board) but will identify specific outcomes or activities against each.
- 5.3 The review will take account of reports and guidance from the Equality and Human Rights Commission's *Measuring Up* programme of work which monitored and evaluated the implementation of the PSED in Scotland.
- 5.4 A report on the requirements below will be presented to the Communities and Partnerships Committee on 14 March 2017.

5.5 **Mainstreaming the equality duty:** New case studies are likely to include the Council's work with partners to resettle Syrian families into the area and the commitment to being Dementia Friendly organisation.

Equality outcomes: Listed public authorities must publish a refreshed set of equality outcomes at intervals of not more than four years after the previous set were published. The Council will review, and where necessary revise, its equality outcomes. It is intended to align these, where possible, with the strategic outcomes proposed in the Council redesign. The EHRC Scotland evaluation of outcomes across public bodies recommends particular attention is given to:

- Clearly demonstrating the use of evidence to inform equality outcomes, including both national and local evidence.
- Demonstrating the involvement of service users, communities, staff and/or community planning partners in the development of their outcomes.
- Ensuring that outcomes are measurable to allow progress to be tracked and reported on.

Publish employee information: information on the composition of the Council's employees, for example on recruitment, development and retention of staff with respect to the number and relevant protected characteristics will be published in the Council's mainstreaming equality report.

Publish pay gap information: This duty now applies to public authorities with 20 or more employees. Updated gender pay gap information will be published in 2017.

Publish statement on equal pay: From 2017, listed public bodies are required to publish an equal pay statement on race and disability as well as gender. Progress is being made towards a revised statement and occupational segregation information which will include race and disability. This duty now applies to any authority with 20 or more employees.

5.6 To ensure involvement of local equality groups in the review of equality outcomes and beyond, it is proposed to:

- Reinstate a programme of meetings between local equality groups and members of the Communities and Partnerships Committee but to hold these on dates separate from Committee itself;
- Carry out a survey of local equality groups to identify their priorities in reviewing equality outcomes;
- Undertake specific focus groups activities with groups to identify their priorities. This may involve working with existing meetings or activities, but also needs to take account of other proposed consultation and involvement activities, for example around the redesign of the Council.

6 Implications

6.1 **Financial implications:** There are no new financial implications arising from this report.

6.2 **Risk implications:** The reports attached manage the risk that the Council would not meet its public duties in the Equality Act by failing to respond to the publication and reporting duties. Failure to comply has the potential to result in enforcement action, legal challenge or loss of reputation.

6.3 **Climate change implications:** There are no climate change implications arising from this report

6.4 **Equalities implications:** this report covers progress on how the Council aims to fulfil the PSED and therefor respond to the needs of different equality groups.

6.5 **Rural implications:** The Fairer Highland Plan aims to understand the experience of equalities groups living in rural areas is under development.

6.6 **Gaelic implications:** There are no new Gaelic implications arising from this report.

7. Recommendation

Members are asked to:

- Note the reporting and publishing requirements of the PSED
- Note the progress previously made to meet the equality duties
- Agree the recommendations to take this work forward in Section 5.6.

Designation: Acting Head of Policy

Date: 16-9-16

Author: Rosemary Mackinnon 19 September 2016

Background Papers:

EHRG Scotland (2016), Essential Guide to the Public Sector Equality Duty: A Guide for Public Authorities (Scotland)

<https://www.equalityhumanrights.com/en/publication-download/essential-guide-public-sector-equality-duty-guide-public-authorities-scotland>

EHRG Scotland (2016), Is Scotland Fairer? Report

<https://www.equalityhumanrights.com/en/britain-fairer/scotland-fairer-introduction/scotland-fairer-report>

EHRG Scotland: Measuring Up: Monitoring the public sector equality duty in Scotland

<https://www.equalityhumanrights.com/en/public-sector-equality-duty-scotland/scotland-public-sector-equality-duty-projects/measuring>

Appendix 1: The Equality Act 2010 and the requirements of the Public Sector equality Duty

The Equality Act 2010 provides people with protection from discrimination on the basis of nine 'protected characteristics' of:

- Age**
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex, and
- Sexual orientation.

The Act places a proactive public sector equality duty (PSED) on public bodies to give due regard in their work to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

The PSED covers the protected characteristics above. *The duty covers marriage and civil partnerships only with regard to eliminating unlawful discrimination in employment. **The ban on age discrimination in services and public functions does not extend to people under 18 and the scope of the duty first duty is therefore limited (although it does not limit the other two aims)

Additional specific duties were introduced by secondary legislation in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. Listed public authorities subject to the specific equality duties are required to:

- report on mainstreaming the equality duty
- publish equality outcomes and report progress
- assess and review policies and practices
- gather and use employee information
- use information on board members gathered by the Scottish Ministers
- publish gender pay gap information (where they have at least 20 employees)
- publish statements on equal pay (where they have at least 20 employees)
- consider award criteria and conditions in relation to public procurement
- publish in a manner that is accessible.

Additionally, there is a requirement for a listed authority to consider other matters which may be specified by the Scottish Ministers and a duty for the Scottish Ministers to publish proposals for activity to enable listed authorities to better perform the general equality duty.

Appendix 2 Timescales for reporting 2017 - 2021

Schedule of timescales when specific duties apply 2017 - 2021	
Report on mainstreaming the equality duty; Publish equality outcomes or report progress ; Publish employee information	April 2017 April 2019 then every 2 years
Publish gender pay gap information - for authorities with 20 or more staff	April 2017 April 2019 then every 2 years
Publish statement on equal pay and information on occupational segregation – for authorities having 20 or more staff	April 2017 in relation to sex, race & disability then every 4 years

Appendix 3: Equality Outcomes summary

High level outcome 1: People are, and feel, free to live their lives without harassment and discrimination, and can take part in community life	
1	People feel involved and are able to participate in public life and influence decision making
2	Highland continues to be viewed as a welcoming place to live and there is positive support for an equal society
3	a) Long term impact of Violence Against Women (VAW) on women and children is reduced Women affected by VAW receive services which meet their needs Children and Young People affected by VAW receive services which meet their needs 3b) Violence Against Women is Reduced Perpetrators are tackled about their behaviour Reduced acceptance of VAW
4	a) The population of Highland have an increased understanding of hate incidents and of their impact on individuals and communities. b) People feel more confident in reporting hate incidents that they have experienced or witnessed. c) People who report hate incidents feel satisfied with the response received from public agencies d) Individuals within protected groups feel safe and secure within their local community.
5	Pupils and school staff have a greater understanding of prejudice based bullying and its impact.
6	Pupils and school staff feel more confident in reporting prejudice based bullying incidents that they have experienced or witnessed
High level outcomes 2: People benefit from public services in a fairer way, and are able to have their say about them	
7	We will improve customer satisfaction rates, in particular from disabled people.
8	Widen participation in the labour market across all client groups and across all Highland geographies: <ul style="list-style-type: none"> • To enable those who are currently removed from the labour market, to move towards and into sustained work. • Improve equality of access to the labour market for all client groups, including disabled people. Ensure that young people can enter the labour market with aspiration, skills and experience: <ul style="list-style-type: none"> • Ensure that our young people and looked after children progress to further/higher education, training or employment. • Partners address significant inequalities in Highland through a coherent and individualised approach to post school transition for young people experiencing significant barriers to employment.
9	Improvements to the life chances and experiences of Gypsy/Travellers living in Highland
10	Disabled people, older/younger people and women experience have improved access to public transport (through the provision of more accessible information on

	transport and better information about accessible services).
11	Increase the number of young people leaving school moving into positive and sustained destinations
12	Reduce gender segregation in positive and sustained destinations for young people leaving school.
13	Fulfil the potential achievements of pupils with ASN
14	Reduce attainment and achievement gaps between boys and girls.
15	Staff and pupils have a greater awareness of how Education The Highland Council Page 9 they can support equality through delivery of curriculum for excellence and wider school approaches following the principles of the Highland Practice Model and SHANNARI
16	We will meet the needs of children and Families who have experienced interrupted learning. This includes Gypsy/Traveller and Roma Children, and young carers.
17	Increased attainment for children and young people from deprived areas.
High level outcome 3: Staff feel there is an organisational culture where everyone is treated with dignity and respect	
18	Increase the proportion of staff who feel they are treated fairly, both in terms of employment and development opportunities, and more generally, feelings of fair treatment in the workplace, (as measured through the Employee Survey).
19	Reduce the gender pay gap where actions appropriate to an employer can be identified.
20	Eliminate barriers to recruitment and development that contribute to pay inequalities.