

Report to Finance and Performance Management Scrutiny Panel

Date of Meeting: 21 June 2011



Portfolio: Leisure and Wellbeing (Councillor R. Gadsby)

Subject: Equality and Diversity - Progress Report 2010/11

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Recommendations/Decisions Required:

- (1) That current progress in relation to a range of equality requirements and initiatives, be noted; and**
- (2) That the Council's outturn performance for 2010/11, in relation to the Equality Framework for Local Government, be noted;**

Executive Summary:

1. (Acting Chief Executive) The terms of reference of the Finance and Performance Management Scrutiny Panel require the consideration of an annual report on the Council's progress towards the achievement of its equality duties and performance in relation to the Equality Framework for Local Government. This report reflects progress for 2010/11.

Reasons for Proposed Decision:

2. The Council is responsible for the development and coordination of an approach to its statutory equality duties, particularly in relation to specific responsibilities to tackle discrimination, promote equality of opportunity, and encourage good community relations.

Other Options for Action:

3. None. The Council is statutorily required to comply with a range of equality duties. Failure to monitor and review performance against the Equality Framework for Local Government and to take corrective action where necessary, could have negative implications for judgements made about the Council, and might mean that opportunities for improvement were lost. The Council has previously agreed arrangements for monitoring progress against the Equality Framework through a Local Performance Indicator.

Report:

Equality Act 2010 - Public Sector Equality Duty

4. The Equality Act 2010 came into force on 1 October 2010, and replaced existing anti-discrimination laws with a single new Act. The Equality Act includes a new Public Sector Equality Duty, replacing the previous separate public equality duties relating to race, disability

and sex, and also covers the 'protected characteristics' of age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment more fully. The Equality Duty consists of a general duty, set out in the Act itself, and specific duties imposed through regulations. As with previous duties, the essence of the Equality Duty remains the requirement to have due regard to the need to achieve the three general duty aims. The general duty has three aims, and requires that public bodies must at all times have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

5. Having due regard means consciously thinking about the three aims of the general duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies, in how they act as employers, how they develop, evaluate and review policy, how they design, deliver and evaluate services, and how they commission and procure services. Having due regard to the need to advance equality of opportunity involves considering the need to remove or minimise disadvantages suffered by people due to their protected characteristics, meet the needs of people with protected characteristics, and encourage people with protected characteristics to participate in public life or in other activities where their participation is low. Fostering good relations involves tackling prejudice and promoting understanding between people from different groups.

6. Specific duties in the form of legal requirements designed to help public bodies meet the general duty, have also been introduced in the form of a new Public Sector Equality Duty. A number of requirements of the new Equality Duty have been carried forward from the previous equality duties, although the new Duty also includes some additional requirements. In summary, in order to meet the new Equality Duty the Council must:

- (a) publish sufficient information to demonstrate that it has complied with the general duty. This must be done by 31 December 2011, and at least annually thereafter, and must include:
 - information on the effect that policies and practices have had on employees and people from the protected groups;
 - evidence of the analysis undertaken to establish whether policies and practices will (or have) furthered the three equality aims in the general equality duty, and details of the information used in that analysis; and
 - details of the engagement undertaken;
- (b) publish information about the engagement it has undertaken, including that used in the development of equality objectives;
- (c) analyse the effect of its policies and practices on equality, and evidence of equality analysis and details of information considered when carrying out analysis, must be published;
- (d) prepare and publish appropriate equality objectives by 6 April 2012, and at least every four years thereafter. Equality objectives be specific and measurable, and must also set out how progress will be measured. Details of engagement undertaken in the development of equality objectives must also be published.

7. This report provides only a brief summary of requirements for the Council arising from the introduction of the Equality Duty. Although the Equality and Human Rights Commission has recently published a range of guidance documents for public bodies setting out the requirements of the duty in full, which are being taken forward by the Corporate Equality

Working Group, the Council had already introduced arrangements to comply with those aspects of the Equality Duty that were carried forward from previous requirements.

Equality Framework for Local Government

8. The Council currently measures its equality performance against the Equality Framework for Local Government (EFLG), which seeks to deliver continuous improvement in relation to fair employment outcomes and equal access to services. The EFLG is a tool designed to enable local authorities to mainstream equality and to ensure that discriminatory barriers are identified and removed, and focuses on a number of key areas which were set out in the progress report made to the scrutiny Panel in June 2010. The Council measures its performance against the EFLG through Key Performance Indicator KPI 01.

9. The EFLG assesses performance at three levels (Level 1 – ‘Developing’; Level 2 – ‘Achieving’; and Level 3 – ‘Excellent’), where Level 3 represents best performance. Although performance against the EFLG is a self-assessment measure, self-assessment at the ‘Achieving’ and ‘Excellent’ levels is required to be validated by a formal peer challenge process managed by Local Government Improvement and Development (formerly the Improvement and Development Agency).

10. The Council undertook an informal external evaluation of its performance against the EFLG in March 2010, which indicated that it might be in a position to seek accreditation to Level 2 towards the end of 2010/11, and a target of the achievement of Level 2 was set for KPI 01 for 2010/11. The report of the informal peer challenge was presented to Management Board in April 2010 and, an action plan was developed to progress the recommendations arising from the challenge exercise, with a view to pursuing formal assessment against the ‘Achieving’ level of the EFLG in early 2011.

11. The recommendations of the external assessment undertaken in March 2010 are being progressed by the Corporate Equality Working Group, but have not yet been fully completed. In addition, the current cost of the peer challenge for Level 2 of the EFLG (£4,300) is considered an unacceptable expense in the current financial climate. Although options are being investigated for alternative peer accreditation or ‘critical friend’ assessment approaches in order to determine improvement against the EFLG, these are unlikely to come to fruition in the short-term. In the circumstances, the Council’s performance against the EFLG for 2010/11 has been maintained at Level 1 – ‘Developing’. The results of the self-assessment exercise for 2010/11, in the form of a progress report against the EFLG action plan, are attached as Appendix 1 to this report.

12. Although the Council currently cannot therefore formally confirm its performance against the Equality Framework, which is reported on the basis of an unvalidated self-assessment only, it is important to ensure a continued focus on the achievement of its statutory equality duties in the absence of any formal accreditation against the EFLG.

Comprehensive Area Assessment and Use of Resources

13. Equality, diversity and human rights were integral to the Comprehensive Area Assessment (CAA) process introduced from April 2009, informing ambitions for:

- better outcomes for individuals, families and communities, including tackling unequal outcomes;
- stronger and more cohesive communities; and
- better understanding of the needs and aspirations of communities, including the differing needs and life chances of individuals, families and communities and the barriers to equality.

14. Equality and diversity considerations were also mainstreamed in the methodology for the annual Use Of Resources (UOR) assessment, which required that equality good practice was embedded and showing outcomes, and the EFLG assisted the Council to demonstrate relevant and robust evidence to support the equality aspects of both CAA and UOR.

15. The Government announced the cessation of the Comprehensive Area Assessment process (including Use Of Resources in June 2010), and has yet to announce proposals for any replacement performance management framework for local authorities.

Impact Analysis and Assessment

16. The Council must assess and analyse the effect of its policies and practices on equality. Case law makes it clear that analysis has to be undertaken before the authority makes policy decisions, and this is a specific requirement of the new Equality Duty. The Corporate Equality Working Group has undertaken a review of the Council's existing arrangements for equality impact analysis and assessment, in order to ensure that these comply with the requirements of the Equality Duty.

17. A screening exercise was conducted during 2009/10 in order to identify and prioritise services and activities for impact assessment over a three-year period commencing from April 2010. Progress against the first year of the three-year programme of CIAs has been monitored by the Corporate Equality Working Group, and the impact assessment process will be reviewed at the completion of the programme. Support and guidance has continued to be provided to staff engaged in undertaking impact assessment by the Performance Improvement Unit.

18. Formal requirements for the identification of equality implications on all Cabinet and Overview and Scrutiny reports were introduced in May 2009, and continue to be monitored by the relevant Agenda Planning Groups chaired by the Deputy Chief Executive. These groups take a robust approach to ensuring that all reports identify relevant equality implications, and that impact assessment is undertaken prior to the consideration of reports by members where necessary.

Corporate Equality Working Group

19. The Corporate Equality Working Group was established in May 2009, to provide input and support to develop and implement the Council's approach to equality. A review of the operation of the Working Group was undertaken in January 2011, in light of almost two years experience, and a number of matters are being taken forward to focus the work of the Working Group, including the development of an annual work programme. In order to maintain high-level focus on the Council's statutory equality responsibilities, the Corporate Equality Working Group is chaired by the Acting Chief Executive.

20. A Staff Equality Group was established in September 2009 to provide a an opportunity for staff across the authority to engage with the Council as an employer in relation to equality issues. The Staff Equality Group is also a source of information and advice for the Council, helping to develop initiatives and to progress positive change. The Staff Equality Group is responsible to the Corporate Equality Working Group and is governed by terms of reference which are reviewed annually. The Staff Equality Group has been engaged in a number of activities since its inception, and led the refurbishment of the Staff Recreation Room at the Civic Offices during 2010/11, in order to make the facility a more welcoming space for all staff and to address disability access concerns.

Single Equality Scheme

21. The new Equality Duty has replaced previous requirements for the publication of equality schemes under the former race, disability and gender duties,. The Government

considers that a shift away from publishing equality schemes towards equality objectives, with specific, relevant and measurable intended impacts combined with the other requirements to publish data on performance, will have a more positive impact on equality. In setting equality objectives, public bodies will still be expected to go through similar processes to those used to develop equality schemes, i.e. they will still need to assess the relevance of functions to equality, gather evidence in relation to all protected characteristics and consult and involve relevant people.

22. Public bodies may still publish equality schemes if they wish, although this is not a requirement of the Equality Duty. The Council has commenced the development of a new Single Equality Scheme to reflect the extension of the range of protected characteristics, and it is considered that this still represents the best approach to meeting the requirements of the new Equality Duty, although without many of the requirements of the former race, disability and gender duties. The new Single Equality Scheme will be considered by the Cabinet in due course.

Outreach

23. The new Equality Duty requires public bodies to publish information about engagement undertaken, including that used in the development of equality objectives. During the last year the Council has undertaken a range of engagement opportunities to increase its understanding of equality issues and to inform the development of its equality objectives.

20. The third day of December is observed each year as the International Day of Disabled Persons, and is intended to promote understanding about disability issues and to increase awareness of disability. In December 2009, the Council hosted a disability awareness raising event in conjunction with the voluntary sector, as part of the annual Local Strategic Partnership stakeholder conference. Although plans were finalised for a more ambitious event to be held in December 2010, this had to be cancelled due to the very inclement weather at the time. The rearranged 'Disability Aware' event was subsequently held in May 2011, coordinated by the Council's Disability Equality Involvement Group, in conjunction with other local groups and organisations for people with disabilities. The event aimed to promote services and raise awareness of the opportunities available for disabled people, to highlight the work of the Council and other organisations in securing equality for disabled people, and opportunities for them to become involved in the community. Disability Aware also offered an opportunity for the Council to undertake a survey of local disabled people in order to develop relevant equality objectives as required by the Equality Act, the results of which will be considered by the Corporate Equality Working Group in due course.

21. The Corporate Equality Working Group remains keen to establish links with local Lesbian, Gay, Bi-Sexual, and Transgender (LGBT) communities, to ensure that the Council's services meet their needs. To this end, the Council undertook small-scale sponsorship of the 'Essex Pride' festival in September 2010, with a view to making contacts with the LGBT community. Essex Pride aims to promote inclusion, equality and diversity, encourage acceptance and eliminate discrimination in relation to LGBT people throughout Essex. The Corporate Equality Working Group is currently considering options for the similar sponsorship of Essex Pride in 2011, and is to undertake a LGBT survey during 2011/12 also in order to assist in the development of relevant equality objectives.

22. The Corporate Equality Working Group conducted a Staff Equality Survey during 2009/10 to seek the experiences and perceptions of staff about working for the Council. The survey covered themes including what staff valued about working for the Council, their thoughts and experiences regarding development, training and promotion opportunities, their work/life balance, and their thoughts about the culture of the Council. The results of the survey were considered by the Corporate Equality Working Group in June 2010, in order to identify issues and themes to inform the development of the Council's equality objectives. A

general staff survey is also currently being conducted by the Human Resources Unit, the results of which will be considered by the Joint Consultative Committee in due course.

Resource Implications:

The achievement of the Council's corporate equality responsibilities can currently be met from within existing resources.

Legal and Governance Implications:

There are no legal implications or Human Rights Act issues arising from this report, which seeks to ensure the development and coordination of a corporate approach to the Council's statutory equality duties, particularly in relation to the specific responsibility for promoting equality and diversity.

Safer, Cleaner and Greener Implications:

There are no legal implications arising from this report in respect of the Council's commitment to the Nottingham Declaration for climate change, the corporate Safer, Cleaner and Greener initiative, or any Crime and Disorder issues within the district.

Consultation Undertaken:

The actions proposed in this report have been reviewed and considered by the Corporate Executive Forum, Management Board and the Corporate Equality Working Group. The Council's current approach to disability equality has been endorsed by the Disability Equality Involvement Group.

Background Papers:

None.

Impact Assessments:

Risk Management

Risk management issues arising from proposals to address the development and coordination of a corporate approach to the Council's statutory equality duties, or specific equality initiatives, will be identified as specific actions are progressed.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?

No. However, issues arising from proposals to address the development and coordination of a corporate approach to the Council's statutory equality duties, or specific equality initiatives, will be identified as specific actions are progressed

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?
N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group? N/A