

Report to the Overview and Scrutiny Committee



Date of meeting: 6 March 2012

Portfolio: Leisure and Wellbeing (Councillor R. Gadsby)

Subject: Equality Act 2010 - Equality Scheme and Objectives 2012-2015

Responsible Officer: S. Tautz (01992 564180)

Democratic Services Officer: A. Hendry (01992 564246)

Recommendations/Decisions Required:

That, subject to the concurrence of the Cabinet, the Council's Equality Scheme and Equality Objectives for 2012/13 to 2015/16, be agreed.

Executive Summary:

1. (Acting Chief Executive) The Equality Act 2010 came into force on 1 October 2010, and replaced previous anti-discrimination legislation. The Equality Act consists of a 'general equality duty', and a new Public Sector Equality Duty (PSED), which requires public authorities to 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.
2. Having due regard means consciously thinking about the aims of the general duty as part of decision-making. Consideration of equality issues must influence decisions made by the Council, in how it acts as an employer, how it develops, evaluates and reviews policy and services, and how it commissions and procures services. Having due regard to the need to advance equality of opportunity, involves the removal or minimisation of disadvantage suffered due to protected characteristics, meeting the needs of those with protected characteristics, and encouraging those 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 those from different groups.

Reasons for Proposed Decision:

3. The setting of specific equality objectives is intended to help public authorities to better perform the general equality duty, focusing on outcomes to be achieved. Equality objectives also help focus attention on the priority equality issues within an organisation, in order to deliver improvement in policy making, service delivery and employment, including resource allocation.

Other Options for Action:

4. No other options are appropriate in this respect. The Council is required to publish appropriate equality objectives by 6 April 2012, and at least every four years thereafter.

Report:

5. The Equality Act 2010 includes a new Public Sector Equality Duty (PSED), which has replaced previous separate equality duties relating to race, disability and gender, and covering the additional 'protected characteristics' of age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment. In order to meet the PSED the Council must:
 - (a) annually publish sufficient information to demonstrate that it has complied with the general equality duty, including:
 - 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 engagement undertaken;
 - (b) publish information about the engagement it has undertaken, including that used in the development of equality objectives;
 - (c) analyse and publish the effect of its policies and practices on equality, and evidence of equality analysis and details of information considered when carrying out analysis; and
 - (d) prepare and publish appropriate equality objectives by 6 April 2012, and at least every four years thereafter.

Equality Information

6. The PSED requires the publication of 'sufficient' equality information by 31 December 2012, to demonstrate compliance with the general equality duty. In early 2012, the Equality and Human Rights Commission (EHRC) published guidance setting out how equality information should be used to comply with the general equality duty. Although EHRC provided a general indication of the types information likely to be published, authorities had discretion to decide what information would best demonstrate compliance with the general duty.
7. The Council already possessed a wide-range of relevant information on equality in service provision, including information about who used services, how satisfied they were with them, and outcomes achieved, although it has not adopted a corporate Equality Some of this information was already broken down by protected characteristic. The PSED required authorities to consider gaps in existing information and how these could be addressed, in terms of services provided, or groups that accessed services, for which it did not have equality information. A lack of equality information was likely to be because the Council had good information but which was not disaggregated for all protected characteristics, or because it did not collect information in relation to particular functions.
8. The issue of what constituted 'sufficient' information to demonstrate that public authorities had complied with the general equality duty, was likely to vary. As a minimum, the Council needed to publish enough information to enable the EHRC and other interested parties to make a robust assessment of whether it was fulfilling the equality duty in the exercise of its functions. The EHRC guidance indicated that the Commission would expect to see the publication of the following information, broken down by protected group:
 - performance information relating to functions relevant to furthering the aims of the duty, especially around outcomes;

- access to services;
 - satisfaction with services; and
 - complaints (broken down by protected group, with an indication of reasons for complaints).
9. A large amount of the evidence base used to inform the Council's equality work was included in a self-assessment prepared in early 2010 for an informal review of the authority's performance against the Equality Framework For Local Government (EFLG). As the Council's approach to the development of the self-assessment document for the EFLG review was considered to be a useful exercise, this information was updated and reconfigured as a new 'Equality Report' to address the requirements of the PSED, to demonstrate the progress that the authority has made, and to address other elements of the EHRC guidance.
10. The Equality Report has been published on a dedicated section of the Council's website, alongside links to already published information that supports the requirements of the PSED, including compliments and complaints data, completed customer impact assessments, workforce equality information, and detailed contextual work undertaken by the Local Strategic Partnership ('Shaping The Future') and in the production of ward profiles. The Equality Report was recently circulated to members in the regular Policy and Information Update.
11. As regulator of the PSED, EHRC has advised that (from early February 2012) it will be assessing the approach taken by public bodies to comply with the duty to publish equality information. In particular, the Commission will be looking at:
- how easy it is to find the equality information and whether it is also easy to understand;
 - how comprehensive the equality information is, with regard to its potential and actual service users as well as employees;
 - whether public bodies have identified what their information gaps are and whether they have clear plans to address them; and
 - whether public bodies have published any information to demonstrate how they have used their equality data to inform decision-making.

Equality Objectives

12. The Equality Act 2010 also replaced previous requirements for the publication of equality schemes under the former race, disability and gender equality duties. The Government believes that a shift away from equality schemes towards specific, relevant and measurable equality objectives and the publication of data on equality performance, will have a more positive impact on equality. In setting equality objectives, public bodies are still expected to assess the relevance of functions to equality, gather evidence in relation to protected characteristics, and consult and involve relevant people.
13. Public bodies may still publish equality schemes, although this is not a requirement of the Equality Act or the PSED. The Council's officer-level Corporate Equality Working Group has supported the development of a new Equality Scheme to reflect the extension of the range of protected characteristics, on the basis that this still represents the best approach to meeting the requirements of the general equality duty, and is useful for communicating the Council's equality achievements and objectives. The draft Equality Scheme for 2012/13 to 2015/16 is also intended to articulate the Council's equality objectives, and is attached as Appendix 1 to this report. The Equality Scheme is an outwardly focused document, providing a position statement of the Council's equality progress. The Scheme will not be reviewed on a regular basis, and ongoing equality achievements will be reflected in the annual publication of equality information (the Equality Report).

14. The proposed equality objectives have been designed to help the Council meet the general equality duty and bring about positive change, and each objective meets one of more of the aims of the general equality duty. The draft objectives have been developed from appropriate evidence and service analysis, and a range of data and information including the results of consultation exercises and surveys, the views of groups and individuals that the Council currently engages with in respect of equality matters, impact assessment and equality analysis, and the report of the informal EFLG assessment in 2010. The proposed equality objectives are:

- (a) To develop existing customer and employee equality intelligence gathering systems and the use of intelligence in service planning

This objective is intended to ensure that relevant and appropriate equality information is gathered efficiently, to identify key equality gaps and inform corporate policy and strategy, to enable the Council to assess whether there are equality trends or patterns that should be investigated. The PSED requires that equality information is used in decision making and service planning and provision, and this process must be transparent and provide evidence that equality information has been used to make decisions and plan and deliver services. Equality data and information is captured on a proportionate basis relevant to individual services and functions.

- (b) To ensure ownership of equality by those within the Council in a position to shape services

This objective is intended to help ensure that equality is understood and appropriately championed by Members and officers in the development and delivery of services. The Council's political and executive leadership should be committed to improving equality outcomes, fostering good relations and respecting human rights. High-level commitment is key to meeting the Council's statutory responsibility to remove disadvantage, meet the needs of people with a protected characteristic, and encourage people to get involved in public life.

- (c) To develop engagement across all protected equality groups

This objective is intended to help advance equality of opportunity and ensure equality in service provision. Equality legislation requires that public authorities appropriately engage with residents and service users to meet the general equality duty. The Council should use community engagement effectively to plan services and prioritise decisions, and engagement opportunities should be inclusive, accessible, and participative.

- (d) To ensure that the Council's culture, systems and working practices allow for the development of a management profile representative of its workforce as a whole

This objective is intended to help secure equality of opportunity in the Council's role as an employer, and to embed a culture of equality throughout the authority. The Council should ensure that the effects of its employment procedures are assessed, and that action is taken to mitigate any adverse impact identified and to promote equality of opportunity, including innovative and holistic initiatives to improve outcomes and address potential barriers.

15. The Corporate Equality Working Group is currently considering whether it would be appropriate for the Council to also adopt an equality objective in respect of its commissioning and procurement (purchasing) activities, as this has been highlighted as a key area by EHRC. This issue may therefore be subject of a future report to the Committee.

16. In order to maintain a co-coordinated approach to equality work, the draft equality objectives are structured in line with the EFLG to help secure improvement to the

'Achieving' level of the framework. On-line consultation in respect of the proposed equality objectives was carried out during January/February 2012, to ensure that they are appropriate to achieving equality and good relations, and are focused on areas where the authority can make the most difference. Whilst only limited levels of response to the consultation exercise were achieved, the proposed equality objectives have received the support of a majority of respondents. All members of the Council were also invited to take part in the consultation exercise (Council Bulletin – 3 February 2012).

17. A range of delivery actions are being developed by the Corporate Equality Working Group to achieve the equality objectives, in the form of a four-year action plan. These equality actions reflect outcomes that can realistically be achieved over the next four years given current capacity issues, whilst at the same time helping to meet the general equality duty. Progress against the action plan will be reported annually at year-end.
18. The Committee is requested to consider the draft Equality Scheme, and to agree the proposed equality objectives for 2012/13 to 2015/16. This report will also be considered by the Cabinet on 12 March 2012, and the views of the Committee will be reported to the Cabinet meeting.

Resource Implications:

The development of the Equality Report for 2011/12 and draft Equality Scheme for 2012/13 to 2015/16 has been met from the current resources of the Performance Improvement Unit. Service specific resources may be required for the implementation of actions to meet the Council's equality objectives, which will be identified as part of the development of an appropriate action plan during 2012/13.

Legal and Governance Implications:

The Equality Act 2010 and the Public Sector Equality Duty require the Council to publish sufficient information to demonstrate that it has complied with the general equality duty, and to publish appropriate equality objectives by 6 April 2012.

Safer, Cleaner and Greener Implications:

There are no implications arising from the recommendations set out in 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. Any relevant implications that may arise from the implementation of actions to meet the Council's equality objectives for 2012/13 to 2015/16, will be identified as part of the development of an appropriate action plan during 2012/13.

Consultation Undertaken:

The Equality Report for 2011/12 and draft Equality Scheme and Equality Objectives for 2012/13 to 2015/16 have been reviewed and considered by the Corporate Equality Working Group and Management Board. The proposed equality objectives for 2012/13 to 2015/16 have been subject of public consultation, and all members of the Council were invited to take part in the consultation exercise. This report was provided to the Leisure and Wellbeing Portfolio Holder in advance of the preparation of this agenda.

Background Papers:

Equality and Human Rights Commission guidance in respect of the publication and use of equality information.

Impact Assessments:

Risk Management

The responsible Service Director will identify any risk management issues arising from proposals for specific delivery actions to meet the Council's equality objectives for 2012/13 to 2015/16.

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, the responsible Service Director will identify any risk management issues arising from proposals for specific delivery actions to meet the Council's equality objectives for 2012/13 to 2015/16.

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