
PUBLIC SECTOR EQUALITY DUTY

1. Summary

The UK Government's Equality Act 2010 includes a public sector equality duty which is designed to help public authorities promote equality and tackle discrimination. The Scottish Government can place further 'specific duties' on public authorities to enable better performance of the general duty.

The Scottish Government is co-ordinating a consultation to seek the views of stakeholders and members of the public on:

- The list of Scottish public authorities to be made subject to the general duty
- The list of Scottish public authorities to be made subject to the specific duties
- The content of the specific duties, which are intended to enable the better performance of the general duty.

Argyll and Bute Council's draft response to the consultation is attached in Appendix 1.

2. Recommendations

It is recommended that the Management Committee:

- Approves the Council's response to the Public Sector Equality Duty consultation to be submitted to the Scottish Government
- Approves the proposed timescale for the development of corporate equality outcomes in line with the new legislation
- Identify opportunities for joint working with close liaison with the CPP Equalities Sub Group
- Continue to aim for equality in service design and delivery as a driver for improving services.

3. Detail

The UK Government's Equality Act 2010 is a major piece of legislation which simplifies, strengthens and where possible harmonises equality legislation into a single approach. As part of this change in legislation, a new 'general duty' has been introduced which will require public authorities to be active in promoting equality, eliminating unlawful conduct and fostering good relations.

The Scottish Government has developed proposals for the new specific duties based on the findings of a consultation undertaken between September 2009 and January 2010.

The proposals reflect the key findings that new specific duties should be proportionate, flexible, outcome focussed and operate within a public authority's existing systems and frameworks. The key elements of the new specific duties are:

- Publishing equality outcomes, based on evidence and involvement of equality groups and communities
- Reporting on 'mainstreaming', action to embed equality into day to day systems and practices
- Consideration of the impact of equality of policies and practices, informed by evidence
- Gathering and publishing employment data
- A Scottish Ministers' duty to set equality priorities and report on progress
- Publication duty, simplification of reporting using existing public performance reporting systems.

The Scottish Government do not require publication of an equality scheme, or to specify the documentation that public authorities must publish. However, there is a requirement to publish equality outcomes.

In order to aid transparency the Scottish Government will request that public authorities state in advance where they will publish their equality outcomes and report on progress.

4. Timescale for reviewing our scheme

It is the intention that the Council's Single Equality and Diversity Scheme will be reviewed by 1st April 2011 to take into account the new public sector duties in consultation with the Community Planning Partnership.

One aspect of the new duties involved developing a set of equality outcomes. The development of these outcomes will include involvement with equality groups and communities as well as communication with community planning partners and other local authorities with the possibility of looking at joint outcomes that are specific to Argyll and Bute.

The equality outcomes will be underpinned by success measures identified and approved by services that will be recorded through Pyramid. Reporting on the equality outcomes will be required no later than 2 years after the outcomes are published.

The development of our equality outcomes will tie in with the review of the Council's Corporate Plans.

Key dates for the development of our Equality objectives include:

- Chief Officer and Senior Officers Meeting – Nov/Dec 2010
- Strategic Management Team – Dec 2010
- CPP – Jan 2011
- Council Executive – Feb 2011

5 Conclusion

The Public Sector Duties that come into force on 1st April 2011 will help the Council to meet its legal duties and improve services for all members of the community. By publishing equality outcomes we will aim to deliver better outcomes for those who experience discrimination or a disadvantage.

Preparation work for the new legislation was considered by the Council when producing the Single Equality and Diversity Scheme in 2009.

The new duties will be supported by the current Single Equality and Diversity Scheme although services will be asked to review their equality measures in order for this to be monitored through Pyramid.

6. Implications

PERSONNEL	None
POLICY	None
FINANCIAL	None
EQUALITY	The new public sector equality duty will apply to any organisation carrying out public functions. Scottish Ministers have the power to place further 'specific duties' on public authorities.
LEGAL	None

For further information, please contact:

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Response to the Public Sector Equality Duty Consultation Appendix 1

1. Do you agree with the proposed list of Scottish public authorities to be added to schedule 19 of the Equality Act 2010 and made subject to the general duty for all of their functions? If not, please tell us why you disagree and provide your suggestions for changes?

Yes – the list of proposed Scottish public authorities listed should be added to those that are made subject to the general duty.

2. Do you agree with the proposed list of Scottish public authorities to be covered by the specific duties? If not, please tell us why you disagree and provide your suggestions for changes.

The proposed list of Scottish public authorities to be covered by the specific duties again covers the main public bodies in Scotland and to that extent, we agree with the list.

3. Do you agree that a public authority should be required to publish equality outcomes which are informed by evidence, informed by the involvement of equality groups and communities, and informed by how the outcomes will assist the authority to meet the general duty? If you do not agree, please let us know why.

Yes – Equality Outcomes should be published by public authorities. It is important that these outcomes are informed by the involvement of equality groups and communities in order to ensure that they reflect the inequalities faced in the public authority area.

4. Do you agree that a public authority should be required to report on progress towards its equality outcomes no later than 2 years after the outcomes are published and at subsequent intervals of no more than 2 years?

A public authority reporting on progress towards its set equality outcomes on a 2 year basis is a sensible approach.

5. Do you agree that a public authority should be required to review its equality outcomes no later than 4 years after the outcomes are published and at subsequent levels of no more than 4 years?

Equality outcomes should be consistent with existing Council processes e.g. revision of Corporate Plans, Service Plans etc so reviewing equality outcomes no later than 4 years after the outcomes are published is welcomed.

6. Do you agree with the proposed duty that an authority must report on action taken to 'mainstream' equality, across all protected characteristics, into day to day systems and practices? If you do not agree, please let us know why.

Yes, the reporting on action to 'mainstream' equality should be embedded into the day to day systems and practices of a public authority e.g. performance management.

7. Please tell us your views on how we can build appropriate proportionality into the requirements around mainstreaming.

No specific comment.

8. Do you agree the first report on progress on the action taken to 'mainstream' equality should be in April 2012, with subsequent reports no later than every 2 years? If you do not agree, please let us know why.

No, a report on the action taken to 'mainstream' equality should be in April 2013 with subsequent reports due no later than every 2 years. This would result in a consistent reporting period of every 2 years.

9. Do you agree that a public authority should be required to consider the impact on equality of new policies and practices, including changes or redesign of policies, practices, services and provision; to use evidence to inform its impact assessment; and have regard to the outcome of the assessment? If you do not agree, please let us know why.

Yes, public authorities should be required to complete an Equality Impact Assessment on any new policy or function including any changes or redesign to policies, services and functions. Results of the completed assessments for the Council will be demonstrated through the results of self assessment through PSIF, Best Value 2, service reviews and internal and external audits.

10. Please tell us your views on how we can build appropriate proportionality into the requirements around impact assessment.

No specific comment.

11. Do you agree that a public authority with 150 or more full time staff should report on employment data starting from April 2012 and no later than every 2 years? Employment data are – the minority ethnic employment rate, the disability employment rate, the employment rates for women and men and the gender pay gap? If you do not agree, please let us know why.

Yes, public authorities with 150 or more full time staff should report on employment data. A potential scenario in Argyll and Bute is that with a low proportion of some equality groups, individuals could be identified. Therefore rather than publishing this data it would be available for any audits or inspections. The data is captured through the Council's performance management system.

12. Do you agree that a public authority with 150 or more full time staff should be required to publish an equal pay statement in April 2012 containing information on equal pay policy within the organisation and occupational segregation within

the organisation and should report on the statement no later than every 4 years? If you do not agree, please let us know why.

Yes a public authority with 150 or more full time staff should be required to publish an equal pay statement in April 2012 and report on the statement every 4 years.

13. Do you agree that Scottish Ministers should determine national equality priorities? If you do not agree, please let us know why.

Yes, it is important for leadership purposes that Scottish Ministers determine national equality priorities. However, it should be considered that the priorities set by Scottish Ministers may not be appropriate for all areas of Scotland, e.g. rural areas. As Argyll and Bute Council reviews its equality outcomes, consideration will be taken as to how these can link to the national priorities.

14. Do you agree that Scottish Ministers should publish their national equality priorities in June 2012 and report on them after no later than December 2014? Subsequent priorities would then be set in June 2016 with a report in December 2018 and at 4 year intervals thereafter. If you do not agree, please let us know why.

In order to set clear priorities, there has to be a high level of engagement with the communities of Scotland. For that reason, it is appropriate that national equality priorities are published in June 2012 and reported on by December 2014. With subsequent priorities to be set every 4 years it demonstrates that Scottish Ministers will review their priorities taking into account all equality target groups.

15. Do you agree that a public authority should report on progress on the specific duties within its existing public performance reporting systems, and should be required to state in advance where it will report and its intended timescale? If you do not agree, please let us know why.

Yes, the majority of public authorities will have existing performance reporting systems; therefore, it is sensible that we continue with this system. It is logical to state in advance where the progress on specific duties will be reported and against what timescale.

16. Do you agree that a public authority should be required to state in advance where it will publish its equality outcomes? If you do not agree, please let us know why

Yes, public authorities should state in advance where it will publish its equality outcomes.

17. Do you agree that the proposed regulations for the specific duties set out a flexible, proportionate and outcome based approach? If you do not agree, please let us know why and tell us what changes you would make.

Yes, the proposed regulations for the specific duties set out a flexible, proportionate and outcome based approach. As each public authority will have

different stakeholder groups it is important that the regulations for the specific duties do follow a flexible approach.

18. Do you have any other comments on the proposed regulations?

No specific comment