

EAST AYRSHIRE COUNCIL

CABINET - 17 NOVEMBER 2010

CONSULTATION ON PUBLIC SECTOR EQUALITY DUTY DRAFT REGULATIONS AND ORDER

Report by Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide Cabinet with a draft response to the Scottish Government's Consultation on Public Sector Equality Duty Draft Regulations and Order.

2. BACKGROUND

- 2.1 The Equality Act 2010, which received Royal Assent in April 2010, includes a new Public Sector Duty. The purpose of the Duty is to put in place a framework for the Council to carry out its functions more effectively and to promote equality and tackle discrimination and its causes in a proactive way. Under this legislation the Council will have placed on it new General and Specific Duties which will come into force in April 2011.
- 2.2 Further 'specific duties' can be placed on public authorities to enable the better performance of the general duty.
- 2.3 Scottish Ministers intend to make some additions to the list of bodies covered by the general duty, and to impose further 'specific duties' which can be placed on some Scottish public authorities.
- 2.4 The purpose of this consultation is to seek views 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.

3. CONSULTATION ON PUBLIC SECTOR EQUALITY DUTY SPECIFIC DUTY

- 3.1 A report was submitted to Cabinet on 13 January 2010, outlining the Council's draft response to the Scottish Government's Consultation on Public Sector Equality Duty Specific Duties. This consultation was published to seek views on the duties that should be placed on Scottish

public authorities to assist them to deliver on the General Equality Duty outlined in the then UK's Government's Equality Bill.

3.2 Subsequently, following a change in UK Government, in May 2010, a number of components of the Equality Act 2010 were postponed to seek further consultation.

3.3 The consultation process has taken two forms; round table discussion event facilitated by the Equality and Human Rights Commission in which the Council was represented by the Equality and Diversity Officer and the Scottish Government's consultation questionnaire which is attached as Appendix 1.

4. POLICY AND LEGAL IMPLICATIONS

4.1 There are no legal implications arising from this report.

5. COMMUNITY PLAN

5.1 There are no direct implications arising from the Community Plan from this consultation.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising from this report.

7. RISK MANAGEMENT

7.1 There are no direct risk issues arising from this report

8. RECOMMENDATIONS

8.1 Cabinet is asked to:

(i) agree the response to the Scottish Government on the Consultation on Public Sector Equality Duty Specific Duties; and

(ii) otherwise note the content of the report.

Alex McPhee

Executive Director of Finance and Corporate Support

2 November 2010

APPENDICES

Any person wishing further information on this report should contact Martin Rose, Head of Human Resources on 01563-576092.

Implementation Officer – Martin Rose, Head of Human Resources

Response Proforma – Consultation Questions

Coverage of the General Duty

Question 1

Do you agree with the proposed list of Scottish public authorities (pages 16-17 of the consultation document) 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Coverage of the Specific Duties

Question 2

Do you agree with the proposed list of Scottish public authorities (pages 19-21 of the consultation document) to be covered by the **specific duties**? If not, please tell us why you disagree and provide your suggestions for changes.

YES NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

No. At present the current arrangements imposed by the specific duties requiring a separate duty to Licensing Boards presents practical problems for the Council. It would be considered more practical that Licensing Boards be subject to the general duty. Given the relationship a Council has with its Licensing Board, the specific duties should be covered within the Council's specific duties.

It would also be useful if the equality duty was applied to the Council as a whole including its capacity as an Education Authority, rather than a separate duty placed on Education.

Content of Specific Duties

Question 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. This will ensure that meaningful involvement takes place within an evidenced based process. This is also in line with the development of the Community Plan and Single Outcome Agreement.

Questions 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?

✓ YES NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. This would support the integration of equality within the Council's business planning framework, and in line with the Community Planning framework.

Question 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 intervals of no more than 4 years?

√ YES NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. Again this is in line with the Council's business planning and Community Planning framework. This would also support mainstreaming equalities within Council's business, which is a requirement of Best Value 2.

Question 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. As mentioned mainstreaming of equalities is a requirement of Best Value 2 and this would help focus the response to the general duty. This would also ensure that the multiple equality characteristics of the Council's communities are acknowledged and considered in its policy and service development.

Question 7

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

Through progress reports and Equality Impact Assessment, There should also be an alignment to Best Value 2 and the Single Outcome Agreement which provide a framework for delivering and measuring outcome.

Question 8

Do you agree that 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.

YES NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. This would be in line with the Community Planning reporting framework.

Question 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 assessment? If you do not agree, please let us know why.

YES NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. The Council is already committed to carrying out and reporting on equality impact assessments. All policies and practices require to be updated on a regular basis; this would take into account the back catalogue of policies through a timetabled process.

Question 10

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

To build proportionality into the requirements around impacts assessment there should be a particular focus on assessing **key** services and policies.

Support from the Government/EHRC in defining how this could be conducted would be beneficial so that all public bodies are assessing to the same standards.

Question 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. This would be in line with the reporting timetable recommended within this consultation document.

Question 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. This would ensure transparency within public authorities. However, this must be done in a meaningful way to ensure it does not become a league table analysis.

Question 13

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

√ YES NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. The priorities should be such that they allow public authorities with different constituencies to approach their general and specific duties in a way which reflects their constituency and local needs.

Question 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.

YES NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

No. Scottish Ministers should publish their national equality priorities earlier. This will allow public authorities to align, where appropriate, national outcomes to local outcomes.

Question 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. However, where appropriate, a separate annual equality monitoring report should remain in place to monitor and evaluate progress on equality.

Question 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. This will allow transparency within the reporting framework.

Question 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 NO DON'T KNOW

Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.

Yes. The proposed regulations for the specific duties set out a flexible, proportionate and outcome based approach, however, this approach should be aligned to improvement frameworks that already exist such as Best Value 2, the Single Outcome Agreement etc. and not add potential layers.

Question 18

Do you have any other comments on the proposed regulations?

Question 19

Do you have any evidence or data that would help us to develop our draft Business and Regulatory Impact Assessment?