

BRIDGEND COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL PEN-Y-BONT AR OGWR

REPORT TO CABINET COMMITTEE
EQUALITIES

REPORT OF THE ASSISTANT CHIEF EXECUTIVE – CORPORATE
DEVELOPMENT & PARTNERSHIPS

13th DECEMBER 2010

WELSH ASSEMBLY GOVERNMENT CONSULTATION ON SPECIFIC
EQUALITY DUTIES ON THE PUBLIC SECTOR IN WALES

1. Purpose of report: -

- 1.1 To seek the views of the Cabinet Committee - Equalities about the Welsh Assembly Government's proposals to develop specific equality duties for public sector organisations in Wales.

2. Connection to Corporate Improvement Plan / Other Corporate Priority: -

- 2.2 The information set out in this report will help ensure that the Authority is aware of proposals to amend its statutory equality duties and will be able to continue to mitigate the risk of failure to meet these duties.

3. Background:-

- 3.1 The Equality Act was passed by the UK Government in Spring 2010. The Act introduced a new general public equality duty across all protected equality characteristics (race, disability, gender, age, sexual orientation, religion or belief, gender reassignment, pregnancy and maternity). The Act will make the equality duties more purposive by requiring public authorities to have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity and to foster good relations.
- 3.2 Under the Act the Welsh Minister was given powers to impose specific equality duties on the public sector in Wales. The Welsh Assembly Government has published a consultation document on the draft Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and wants to get views and suggestions from stakeholders and citizens on the draft regulations in order to give sufficient flexibility to public authorities to improve performance under the general equality duty.
- 3.3 In considering the framing and scope of these regulations the Welsh Assembly Government has taken into consideration the responses it received when it undertook a listening exercise on the Equality Bill in Autumn 2009.

- 3.4 Responses to the consultation exercise should be received by the Welsh Assembly Government by 17th December. An outcome report from the consultation exercise will be published in January 2011 and a final draft of the regulations will be laid before the National Assembly for Wales on 11th February 2011. It is expected that these duties will come into force on 6th April 2011.

4. Current situation / proposal :-

- 4.1 The Committee are invited to offer views on the draft response to the points raised in the consultation paper.

- 4.2 It is proposed that the Council's response to the questions included in the consultation document be based on the points outlined under each question:

- (i) **Do you think that presenting equality objectives in schemes will help improve transparency or should the requirement to retain equality schemes be removed?**

It is considered that the approach taken to the production of schemes should be linked to the statutory mechanisms for service improvement and strategic planning, set out in the Wales Programme for Improvement and the Local Government (Wales) Measure. This will help to ensure accountability and transparency through established reporting methods, thus obviating the need to publish separate equality schemes. Common methods of objective setting and improvement measurement will help to build equality objectives into the strategic and business planning processes of the public sector in Wales. The Authority recommends that the regulations outline a responsibility to revise schemes in-line with local authority business cycles. This will help keep schemes live and relevant, and assist with mainstreaming equality into the core business.

- (ii) **Should WAG include detailed requirements about how public authorities should collect and report data in respect of pay differences or should the detail be included in guidance to be published after the regulations have been made?**

No. The Authority recommends that WAG should not be prescriptive in this area. Local authorities are in the process of implementing job evaluation and new pay and grading structures that promote equality. It was recognised during the listening exercise on the draft Equality Bill that there are challenges to collecting and reporting on the factors that contribute to pay differences with regard to certain protected characteristics.

- (iii) **WAG have replaced the 150 employees level for imposing employment related reporting duties suggested during the Listening exercise, in favour of a duty that protects personal**

information and confidence in accordance with the Data Protection Act 1998. Do you agree with this amendment?

Yes. The Authority welcomes this amendment as it recognises the concerns raised during the listening exercise on the Equality Bill that setting the threshold at 150 employees was arbitrary. The amendment will ensure public sector organisations publish relevant data while protecting the privacy and confidence of its employees.

- (iv) **Do you agree that public authorities should be able to decide how often their objectives should be reviewed, or should public authorities be told how often reviews should be undertaken, say annually?**

The Authority is of the view that the process of setting and reviewing equality objectives should fit in with timetables adopted for the Wales Programme for Improvement and the Local Government (Wales) Measure.

- (v) **Should public authorities be required to collect data about their employees in respect of recruitment, training, disciplinary and pay to inform the development of employer related objectives?**

The Authority already collects and reports on employment data in line with the previous equality employment duties. It is considered that the detailed list of employment data to be collected as set out in the draft regulations is too prescriptive and will distract from taking action that will produce improvements. It will require extensive administrative resources to implement, and it is considered that the requirements outlined in the draft regulations appear nonsensical. The specificity of the draft regulations on employment and pay also runs contrary to the general thrust of the regulations as a whole – that public sector organisations should take full responsibility for determining their equality objectives and make appropriate arrangements for achieving them.

Guidance supporting the implementation of general requirements about employment data collection, analysis and reporting would be more beneficial. The following factors should also be considered:

- Such data should not be published in isolation. At an organisational level there are concerns about the robustness of reporting data to ensure that it is valid and not open to misinterpretation by the public or media.
- Some data remains difficult to collect. There are privacy and confidentiality issues around areas such as belief, sexual orientation and gender reassignment.

- (vi) **Do you agree that Welsh Ministers should report on the implementation of the new general public sector equality duty as proposed, or should the reporting on implementation of the**

disability duty as required under current legislation remain unchanged, or removed altogether?

Ministerial reports on the implementation of the new public sector equality duty should be extended to include all the protected characteristics covered by the duty. The duty has previously been a good opportunity to collectively review progress towards disability equality in policy sectors and to propose coordinated action to improve performance.

- (vii) **Should the report on the implementation of the general equality duty be published by the Welsh Ministers every 3 years as currently required by the disability duty, or every 4 years reflecting the timeframe of the fixed term of Assemblies?**

The proposal that the reporting timescales for publication of Ministerial reports be amended to reflect the timeframe of the fixed term of the Assemblies is supported, but this will take time to implement. The proposal to continue with the current timescales and produce a specific report on the implementation of the disability duty in line with the current specific equality duties requirements appears sensible in the interim. This will give WAG sufficient time to reshape the relevant procedures and implement the necessary changes to accommodate the new public sector equality duty.

- (viii) **Do you think that specific public sector equality duties should be more, or less prescriptive. Or do you think the balance is about right?**

It is considered that the specific public sector equality duties should be less prescriptive. The Authority is of the view that practical guidance on how to fulfil the regulations would be more beneficial to achieving better outcomes on equality across the public sector in Wales.

- (ix) **We have proposed introducing these duties on 90 larger devolved public authorities in Wales. Are there any devolved Welsh public authorities that you think should be included, or removed from the list proposed at annex A? Please give your reasons**

No.

5. Effect upon Policy Framework & Procedure Rules:-

- 5.1 The report has no direct effect upon the policy framework or procedure rules but does support the effective implementation of the Council's statutory duties in relation to equalities and human rights.

6. Equality Impact Assessment :-

- 6.1 Whilst no equality impact assessment has been carried out this report provides the Committee with information which will positively assist in the delivery of the Authority's equality duties.

7. Financial Implications :-

7.1 There are no financial implications.

8. Recommendation: -

8.1 That the Cabinet Equalities Committee consider the issues raised in this report and identify any changes or additional comments they would like to suggest be included in the Authority's response.

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13th December 2010

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10. Background documents:-

- Equality Act 2010.
- Welsh Assembly Government: Equality Act 2010: Performance of the Public Sector Equality Duties in Wales (September 2010).
- Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.
- Local Government (Wales) Measure 2009.