

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET COMMITTEE - EQUALITIES

DATE 23 May 2011

REPORT OF THE ASSISTANT CHIEF EXECUTIVE - PERFORMANCE

BRIEFING ON THE PUBLIC SECTOR EQUALITY DUTIES UNDER THE EQUALITIES ACT 2010

1. Purpose of Report.

The purpose of this report is to introduce a briefing paper prepared on the public sector equality duties under the Equalities Act 2010 that came into force on 6th April 2011. This is attached as Appendix A.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The Equality Act 2010 sets out general and specific duties for local authorities in Wales. Equalities is a cross-cutting issue that impacts upon the work of the whole Council.

3.0 Background.

- 3.1 The Equality Act was passed by the UK Government in Spring 2010. The Act introduced a new general duty for public bodies towards equality groups with protected characteristics (race, disability, gender, age, sexual orientation, religion or belief, gender reassignment, pregnancy and maternity). The Act requires 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 In December 2010, Cabinet Equality Committee received a report on The Equality Act and approved a response to the Welsh Assembly Government's (WAG) consultation on the public sector equality duties.

4. Current situation / proposal.

- 4.1 Following the consultation, WAG has introduced specific duties for public authorities and these duties are set out in The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. These duties came into force on 6th April 2011.
- 4.2 The briefing attached as Appendix A summarises the key points of the new specific duties which include:

- A duty to **publish equality objectives** by 2nd April 2012 and review these every 4 years
- A duty to **collate information** and assess whether the general duty is being complied with and produce a report by 2nd April 2012. (regulation 7)
- A duty to **assess the impact** of policies and practices
- **engagement** provisions (regulation 5)
- A duty to publish a **strategic equality plan** (SEP) by 2nd April 2012
- **procurement** provisions
- A duty to have regard to **pay gaps** and produce action plans.
- Provisions on **employee information and training**

4.3 The briefing paper outlines what the authority will need to do but the Equality and Human Rights Commission are preparing guidance on the new duties and this guidance is expected to be published in June 2011. This guidance will further inform our approach to the implementation of the new duties and it is intended that a report be prepared for the next meeting on this issue.

4.4 An important element for the cabinet committee – equalities to be engaged with will be the development of the strategic equality plan incorporating equality objectives for the authority. This plan will replace the current Equality Scheme from 2nd April 2012 and the Performance Directorate Business Plan will include the key actions that need to be taken in 2011/12.

5. **Effect upon Policy Framework& Procedure Rules.**

5.1 As this is an information report, there are no proposed changes to the Policy Framework and Procedure Rules.

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 The implementation of the revised equality duties will have financial implications for the Authority; at the current time, however, these cannot be quantified. The development of the Plan will be managed within existing resources. The new Strategic Equality Plan will set out the equality objectives and the financial implications of its implementation will be considered within the 2012/13 budget process.

8. Recommendation.

- 8.1 The Cabinet Committee – Equalities
- a) notes the information in the attached briefing paper
 - b) awaits the publication of the guidance from the Equality and Human Rights Commission
 - c) receives a further report at its next meeting on the implementation of the new public sector duties.

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Background documents:

Report Of The Assistant Chief Executive – Corporate Development & Partnerships to Cabinet Committee – Equality 13th December 2010 - Welsh Assembly Government Consultation On Specific Equality Duties On The Public Sector In Wales

APPENDIX A

Briefing Paper: Public Sector Equality Duty

Background – the Equality Act 2010 General Duties

The public sector equality duty is part of the Equality Act 2010. The Act applies a general duty to public authorities listed in schedule 19 and also to bodies who exercise public functions. Public functions may be delivered by public, private or voluntary sector, or jointly.

The general duties are that a public authority (and those other bodies who exercise public functions) must, in the exercise of its functions, have due regard to the need to

1. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act
2. Advance equality of opportunity, between persons who share a relevant protected characteristic and persons who do not share it – for example by
 - removing/ minimising disadvantages
 - meeting the needs of those who have a protected characteristic
 - encouraging participation in public life/ activities
3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. For example by
 - Tackling prejudice
 - promoting understanding

The protected characteristics under the Act are:

Age
disability
gender reassignment
pregnancy and maternity
race
religion and belief
sex
sexual orientation
marriage and civil partnerships

(Marriage and civil partnerships is only a protected characteristic under 1 above.)

The general duties come into force on 6th April 2011.

Specific Public Sector Equality Duties for Wales

The Act introduces specific duties to public authorities listed in schedule 19 and, for Wales, these duties are set out in The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. These duties also come into force on 6th April 2011. These specific duties differ between England and Wales with

the arrangements in Wales being more prescribed.

The public authorities listed in schedule 19 include

- Welsh Assembly government
- National Health Service
- County or county borough councils
- fire and rescue authorities
- National Parks
- Educational bodies, including schools governing bodies.

The specific duties include:

- duty to **publish equality objectives** by 2nd April 2012 and review these every 4 years
- duty to **collate information** and assess whether the general duty is being complied with and produce a report by 2nd April 2012. (regulation 7)
- duty to **assess the impact** of policies and practices
- **engagement** provisions (regulation 5)
- duty to publish a **strategic equality plan** (SEP) by 2nd April 2012
- **procurement** provisions
- duty to have regard to **pay gaps** and produce action plans.
- Provisions on **employee information and training**

Equality Objectives/ SEP

By 2 April 2012 a Strategic Equality Plan (SEP) must be published as a public facing document whose information is reasonably accessible to people with protected characteristics. This document will include the equality objectives and arrangements considered necessary for the better performance of the general duty.

A statement must also be published setting out the steps to be taken to fulfil each objective and when it is expected that they will be achieved but the guidance from the EHRC should assist us identify what action needs to be undertaken in 2011/12 and later years.

The equality objectives are to be designed to assist in the performance of the three aspects of the general duty for all of the groups with protected characteristics. These will address the biggest and most pressing issues facing the protected groups that the authority provides services for and employs. This is intended to relate closely to the normal process of business planning for the authority.

If an equality objective is not published for each of the protected groups, the authority must publish a statement giving reasons why not. (These reasons are likely to be subject of close scrutiny by the Equality and Human Rights Commission)

An Equality Impact Assessment (EIA) provides information and action that can be incorporated into the development of equality objectives.

Information Gathering

Appropriate arrangements must be made to

- identify relevant information already held that demonstrates compliance (or otherwise) with the general duty
- identify and collect what relevant information felt necessary that is not already held
- publish relevant information held.

To do this it will be necessary to assess

- what is already being done
- what else could be done

that will support compliance with the general duty.

Engagement Provisions

In preparing the equality objectives, impact assessments and in collating of information, the authority must

- involve people they think represent the interests of the people who share the protected characteristics
- involve people who have an interest in the way the authority carries out its functions in this respect

and may also involve anyone else they consider appropriate. They need to consider whether to involve individuals with the protected characteristic. (i.e. Must have good reason for not involving individual people with a protected characteristic).

Engagement is necessary at every stage from the outset, developing options, implementation and assessment and monitoring.

Assessing the Impact of Policies

An authority must make arrangements for

- assessing the impact of new or reviewed policies and practices on its general duty and publish reports where that impact is substantial
- monitor the impact of policies on its general duty

Assessments must comply with the engagement provisions.

Assessments will also consider where there are opportunities to promote equality that have previously been missed or could be better used as well as adverse impacts.

Training and Collection of Employment Information

The regulation sets out the specific information the authority must collect each year.

- The number of persons employed broken down by protected

- characteristic
- The number of persons by
 - job
 - grade
 - contract type
 - working pattern
- The number of persons, broken down by protected characteristic
 - applicants for employment
 - employees applying to change job
 - employees applying to undertake training
 - employees involved in grievance procedures
 - employees subject of disciplinary proceedings
 - employees leaving the authority

This duty does not enable the authority to require that individuals provide information.

The regulation requires that the authority promotes knowledge and understanding in its staff about the duties and uses its performance assessment procedures to identify and address training needs.

Pay and Action Plans

The duties make specific reference to the need to collect information and consider identifying an equality objective on differentials in pay between protected groups.

The authority must publish an action plan setting out any policy or objectives it has in relation to gender pay difference.

Procurement

Authorities must consider whether the award criteria and conditions for performance of a relevant agreement under the Public Sector Directive should relate to the general duty under the Equality Act.

Publication

By 2nd April 2012 the following must be published

- A public facing Strategic Equality Plan that will contain equality objectives, supporting actions and target date for completion and any other actions to support the general duty. .
- assessment of current and potential activity to support the general duty, including relevant information held.

The SEP may be published as part of another document or within a number of other documents.

An annual report must be published for each year on progress with the equality objectives and in collecting relevant information and how that information has been used. This may also be published as part of another document or within a number of other documents.

NB, By 31st December 2011, the Assembly must publish a report on progress being made with the specific duties by public authorities. Given the lead in time for Assembly approval, it is likely that the information will be required from authorities by the early Autumn.