

CORPORATE GOVERNANCE COMMITTEE

THURSDAY 30<sup>TH</sup> JUNE 2011

REPORT OF THE CHIEF EXECUTIVE

**5A EQUALITY ACT 2010 – PUBLIC SECTOR EQUALITY DUTY**

PURPOSE OF REPORT

1. To advise members of the new Public Sector Equality Duty implemented by the Equality Act 2010 and on steps to be taken to ensure compliance.

INFORMATION AND ANALYSIS

2. The Equality Act 2010 (The Act) replaces previous anti-discrimination laws with a single act. It was intended to simplify the law, remove inconsistencies and aid understanding and compliance whilst also, in some ways, strengthening the law.

3. The Act Contains a Public Sector Equality Duty which came into Force on 5<sup>th</sup> April 2011. The Duty is set out in section 149 of the Act and applies to public bodies including Police Authorities. The Duty is also relevant to the Force given the services and tasks carried out under delegated authority from the Police Authority and which whose actions affect Staff employed by the Authority and the service provided to the public.

4. The purpose of the Duty is to promote understanding of different people's needs to ensure that public bodies consider the needs of all individuals in shaping policy, delivering services and in relation to their own employees.

5. The new Equality Duty replaces the three previous public sector equality duties in relation to race, disability and gender. The new Duty covers 8 protected characteristics;-

- Age
- Disability

- Gender reassignment
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

The Duty also applies to Marriage and Civil Partnership only in respect of the requirement to have regard to the need to eliminate discrimination.

6. The three aims of the Duty are to have due regard to the need to ;-
  - eliminate discrimination, harassment and victimisation,
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it,
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
7. “Having due regard to” means consciously considering the three aims of the Duty as part of decision making processes. It involves removing or minimising disadvantages suffered by people due to their protected characteristics, taking steps to meet the needs of people from protected groups and encouraging people from protected groups to participate in public life or other activities where their participation is proportionately low. Equality will, of course, be only one factor in decision making processes and the weight given to it in comparison to other factors will depend on the extent to which that function affects the three aims and the likely level of any disadvantage which could result.
8. The duty cannot be delegated and all those involved in a public body should be aware of it.
9. The duty should be applied in a manner which is not overly bureaucratic and to this end it is noteworthy that:

- there is no requirement to conduct Equality Impact Assessments – the duty involves conscious consideration of the three aims and the best method of demonstrating compliance is simply to keep a record of how decisions have been made and processes formulated including factors considered.
- equality issues do not have to be considered where they are not relevant to the particular matter.
- the duty is limited in terms of proportionality. Disproportionate actions are not required and what is proportionate will be determined by the potential of the policy or function to substantially affect discrimination or equality of opportunity.
- the duty does not require all people to be treated the same but rather to recognise differences so that people's needs can be met.

10. The Act also imposes a specific duty on public bodies to publish (in a manner accessible to the public) sufficient information to demonstrate compliance with the general Public Sector Equality Duty. The information must include:-

- Information on the effect that it's policies and practices have on people who share a protected characteristic – both employees and service users.
- Evidence of analysis undertaken to establish whether their policies and practices have (or will have) furthered the aims of the general equality duty.
- Details of information considered when carrying out this analysis
- Details of engagement undertaken with those who may be affected.

11. There is no prescribed method of publishing this information and there is actually no specific requirement for a single equality scheme although many organisations have found them to be useful way to improve transparency and communication about their equality aims.

12. By April 2012 public bodies will also have to prepare and publish equality objectives together with details of engagement undertaken in developing these. It should consider the information published prior to preparing it's objectives and the objectives should be specific and measurable and set out how progress will be

measured. A single equality scheme could be utilised as a convenient format for publishing this information.

13. The Act provides a power for Regulations to be made imposing specific duties on public bodies to support better performance of general duties. The Equality and Human Rights Commission, the regulatory body for equality, has stated that the Government is committed to reducing bureaucracy in equality by moving away from a process-driven approach to enable public bodies to focus on what is appropriate to their circumstances.

14. Members should note that the Authority does incorporate equality considerations into many of its working practices however the suggested plan of work should ensure that these considerations are fully integrated into the Authority's plan of work and that the Authority is able to demonstrate this through publishing information and objectives.

#### SUGGESTED WAY FORWARD

15. In order to ensure compliance with both the general Public Sector Equality Duty and the specific forthcoming requirements to publish information it is recommended that the following steps be taken;

a) the development and publishing of a Single Equality Scheme – as this would provide a logical and convenient method of clarifying and making accessible to the public, information as to how the Authority will ensure compliance with the Equality Duty and for setting out and measuring progress on equality objectives .

b) that a reporting structure is agreed with the Force to enable the Authority to have oversight of the equality activity taking place within the Force and to satisfy itself of Force compliance with the Equality Duty.

c) that a lead member be assigned to sit on the Force's Strategic Equality Assurance Board to enable further oversight of Force equality related activity. Councillor Hilary Jones has been nominated as the lead Member for this purpose.

d) that a further update report be brought to the Committee later this year to report on progress and any additional planned actions as a result of any further legislative developments or guidance received.

FINANCIAL, RISK, LEGAL, EQUALITY, AND HEALTH AND SAFETY  
CONSIDERATIONS

16. The following considerations should be considered or noted:
- a. Legal Considerations Inherent within the report
  - b. Financial Considerations None at this time
  - c. Equality Considerations Inherent within the report

OFFICER RECOMMENDATION

17. That the Committee note the report and agree the planned actions outlined in paragraph 15.

**SIMON C BATE OBE  
CHIEF EXECUTIVE**

Lead Officer: Mrs Alison Clarke

Deputy Chief Executive and Senior Policy Officer

Tel - 700 3775

01773 733775

[Email](mailto:alison.clarke.9756@derbyshire.pnn.police.uk) address alison.clarke.9756@derbyshire.pnn.police.uk

Background Papers:

-The Equality Act 2010

- Government Equalities Office publication : Equality Act 2010 – Public Sector Equality Duty – what do I need to know? A quick Start Guide for Public Sector Organisations

- Equality Act Guidance documents published on the Equality and Human Rights Commission website
- Equality Act 2010 – What do I need to know? A Summary Guide for Public Sector Organisations
- Equality Act 2010 – The Public Sector Equality Duty: reducing bureaucracy policy review paper