

Report

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Report to:	Equal Opportunities Forum
Date of Meeting:	16 March 2010
Report by:	Executive Director (Corporate Resources)

Subject:	Equality Impact Assessment - Update
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ advise Forum members of the progress the Council has made in carrying out equality and human rights impact assessments (EqIA)
- ◆ advise Forum members of the Equality and Human Rights Commission (EHRC) forthcoming project "Counting the Costs"

2. Recommendation(s)

2.1. The Forum is asked to approve the following recommendation(s):-

- (1) that the contents of the report be noted.

3. Background

3.1. Since 2002, legislation on race, disability and gender equality has been amended to introduce a pro-active duty on the public sector to "promote equality of opportunity" and tackle discrimination. Underpinning this duty is a requirement to assess and monitor the delivery of policies and public functions which are relevant to the equality duty for any adverse impact. This process is applied to new or changed policies, functions or services as well as existing ones which are "relevant" to our duties.

3.2. The ongoing work has highlighted the need for the Council to review and revise the manner in which it collects and monitors both the profile of its workforce and the uptake of services to ensure that we have a better understanding of the impact our work is having. As previously reported to the Forum, amendments have been made to the Council's equal opportunities monitoring form to ensure that the Council has an accurate as possible profile of its workforce and community.

3.3. This work is essential as it will not only help improve the way in which services are targeted but also improve general efficiency and effectiveness by ensuring that we are taking a proactive approach and not a reactive one.

4. Our Progress to Date

4.1. Over 400 equality and human rights impact assessments have been carried out or are currently underway. A total of 87 assessments were carried out in relation to the 2010/11 financial savings proposals. These assessments were quality assured and published on the Council website in January 2010.

- 4.2. Of the assessments carried out to date, 70% have concluded that there is no adverse impact on any part of the community or workforce covered by equalities legislation and 30% that there is or may be adverse impact. Where this is the case, these assessments have set out action plans to either gather more relevant information or to make appropriate changes to the strategy, policy or function.
- 4.3. An example of where change has been required has been the assessment of personnel policies. For a number of these it has been identified that current monitoring systems are not as robust as required. As such, work has been undertaken to amend the equal opportunities monitoring form used by the Council and in future both recruitment and service delivery will be able to be analysed in greater detail by the seven equalities categories. This will lead to a greater understanding of the effect and impact of strategies, policies and functions and will lead to improvements where necessary.
- 4.4. Another example of where change has been made was the recent assessment of the Disabled Persons Parking Bay criteria whereby a review of the existing system was undertaken in light of the recently introduced Disabled Persons Parking Places (Scotland) Act 2009. The assessment was conducted with representatives from Corporate, Enterprise and Social Work Resources as well as members from the South Lanarkshire Access Panel. This ensured that the changes made to the criteria were in line with the Act and were acceptable to members of the public that they would most affect.

5. Priorities for the Year Ahead

- 5.1. The Chief Executive has recently been informed by the Equality and Human Rights Commission of their "Counting the Costs" project which will examine local authority funding decisions in Scotland relating to the 3 public sector equality duties. The purpose is to analyse particular funding and organisational decisions made by local authorities to examine the impact these decisions have had on particular equality groups and the extent to which local authorities have taken their public sector duties into account when making decisions.
- 5.2. The Commission is suggesting that recent developments may have resulted in councils making decisions which potentially have or will have negative consequences for equality mandate groups. It states that the Concordat between the Scottish Government and COSLA brought about, amongst other changes, the removal of ring-fenced funding which may have an impact on service delivery and that the global economic downturn has resulted in local authorities facing extreme financial constraints.
- 5.3. The Commission highlights that it has been contacted by a range of stakeholders who have expressed concern about the potential implications of these developments for equalities mandate groups. They state that questions have also been raised with them about whether the potential equalities impact of particular funding decisions has properly been assessed.
- 5.4. The project will involve a retrospective analysis of all such decisions made in financial years 2006/2007, 2007/2008 and 2008/2009. The Council has been informed that the particular focus for South Lanarkshire will be in relation to decisions which relate to the Gender Equality duty.

- 5.5. We have recently carried out impact assessments on all efficiency saving proposals for financial year 2010/2011 and, as such, work has been carried out by the Equality and Diversity Working Group to quality assure these. This was to ensure that all assessments provided a clear basis for decision making and were realistic in assessing impact upon equality groups. In the tender documentation, the EHRC stated:

“In carrying out the analyses, the Commission is not examining the merits of the particular decisions; rather, the Commission is looking at the consideration of equality issues during the decision-making process, and the impact that the decision has had on the relevant equality groups.”

They also make clear in their letter that information from their project will be reported in aggregate for all councils or for groups of councils. As such, no councils will be named and quotes, references or examples will remain anonymous.

- 5.6. This project follows on from cases in England where the EHRC has successfully intervened to show that due regard has not properly been taken when making financial decisions. The 2 cases they highlight in particular are those of Harrow and Ealing Councils, the details of these are explained in appendix 1.
- 5.7. The EHRC highlight from both these cases that the equality duties are legal obligations which should remain a priority, even in times of economic difficulty. The duties are an invaluable tool to help ensure that decisions do not create or perpetuate inequality.
- 5.8. To ensure that they have complied with the equality duties, and to ensure that any decision made does not unfairly discriminate, public authorities should carry out robust equality impact assessments and consult and involve relevant stakeholders as part of the decision-making process.
- 5.9. In all of this EHRC are not trying to stop difficult decisions being made, but are keen to point out that decision makers should have all of the relevant information available to ensure they make an informed decision.

6. Employee Implications

- 6.1. Employees will continue to receive appropriate training to ensure they have the skills and knowledge to undertake and record assessments.

7. Financial Implications

- 7.1. Associated costs will be met from existing resources.

8. Other Implications

- 8.1. None

9. Equality Impact Assessment and Consultation Arrangements

- 9.1. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.
- 9.2. There was no requirement to undertake any consultation in terms of the information contained in this report.

Robert McIlwain
Executive Director (Corporate Resources)

3 March 2010

Link(s) to Council Objectives

- ◆ Successful and inclusive communities
- ◆ Safe and healthy communities
- ◆ Working and learning communities
- ◆ Modernising and improving

Previous References

- ◆ Equal Opportunities Forum - 20 May 2008 - Update report on progress with impact assessment
- ◆ Equal Opportunities Forum - 8 December 2009 - Update report on progress with impact assessment

List of Background Papers

None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Gill Bhatti, Employee Development and Diversity Manager

Ext: 5604 (Tel: 01698 455604)

E-mail: gill.bhatti@southlanarkshire.gov.uk

Appendix 1

The Public Sector Equality Duties and financial decisions

Harrow – the importance of taking Public Sector Equality Duties into account

In the case of the London Borough of Harrow Council there was a proposal to restrict provision of adult care services to people with critical needs only, in light of a budget deficit. Consultation and an equality impact assessment (EqIA) were carried out regarding the proposed change and concerns were identified that the proposal would have a differential impact on particular groups of disabled people.

A report on these issues, including analysis of the results of the consultation and the EqIA, were considered at a Cabinet meeting where the Council decided to move forward with the proposal. However, the EHRC point out that the Disability Equality Duty, and the specific obligations it places on the Council, were not explicitly brought to the Councillors' attention when they made the decision.

The decision was challenged by service users and the Court held that elected members could not come to a balanced conclusion without being aware of what their responsibilities under the Disability Equality Duty were and as a result the decision was held to be unlawful.

Southall Black Sisters – the need to impact assess decisions

In the case of Ealing Council, the Southall Black Sisters (SBS) were providers of a specialist service to Asian and Black Caribbean women, particularly in relation to domestic violence issues. In June 2007, the Council proposed to move away from funding particular organisations such as SBS and towards commissioning services following competitive bidding.

Despite concerns raised during consultation that plans had not been equality impact assessed, and that commissioning could disadvantage grassroots initiatives, Ealing decided to go ahead anyway.

During discussions about the criteria for commissioning domestic violence services, SBS highlighted the adverse impact that the criteria could have on pre-existing services and that an EqIA should be carried out.

Ealing carried out a belated assessment on its proposals before deciding to proceed with the commissioning criteria. As a result, 2 SBS service users launched a judicial review of the decision.

Ultimately, Ealing conceded these submissions and withdrew from the case. However, in an oral judgement, Lord Justice Moses reiterated the importance of undertaking an EqIA and also the importance of carrying out an EqIA before policy formulation.