
EQUALITY SCHEME 2012-16 UPDATE

Responsible Cabinet Member - Councillor Andy Scott, Health and Partnerships Portfolio

Responsible Director - Paul Wildsmith, Director of Resources

SUMMARY REPORT

Purpose of the Report

1. To provide an update on the direction of travel for equalities within the Council in the face of a changing local authority landscape. The recommendations ask Cabinet to acknowledge the key issues and agree an action plan to ensure the Council continues to meet its statutory duties in the future.

Summary

2. The Council Adopted the Equality Scheme at Cabinet on 11 September 2012 and within the scheme is set out the statutory requirements that the Council has to comply with.
3. Set out in the report are the key actions that need to be undertaken to meet the requirements of the Equality Act 2010 and the Public Sector Equality Duty contained within it.
4. The statutory duties have not changed since the Scheme was agreed but the capacity to deliver the actions set out in the Scheme have. Many of the statutory requirements set out in the Act have also been clarified by case law. It is important to review our activities to make sure that they are effective and efficient.
5. The Council also has social cohesion issues that need to be addressed and this links to our Public Sector Equality Duty. It is important that the activity to address these issues is set into the broader equalities activity.
6. Also the Council has priorities that are not statutory obligations but would improve the life of the people of Darlington. There are inequalities in the need for services for example to address poverty and health inequalities. The Council needs to be clear how these will be addressed whilst complying with our Public Sector Duty too.

Recommendation

7. It is recommended that:
- (a) Evidence gathering and option appraisal work takes place over the next 3-6 months to identify the most effective and efficient way to meet our equality statutory requirements as set out in the Equality Act 2010 including but not limited to the Public Sector Equality Duty.
 - (b) Work takes place to examine how local inequalities and social cohesion issues can also be delivered within the limited resources available across the Council.
 - (c) To receive a further report detailing evidence that has been gathered during the review and outlining options to bring back to Cabinet in Spring 2014.

Reasons

8. The recommendations are supported by the following reasons :-
- (a) There is a continued requirement to comply with our statutory duties but a reduced capacity to deliver and we need to focus resources to ensure compliance.
 - (b) Social Cohesion and Inequalities, whilst closely linked to the Equality agenda are separate but by reviewing activity we may be able to focus resource in a way that also adds value by delivery of these agendas.

Paul Wildsmith
Director of Resources

Background Papers

11 September 2012 Cabinet Paper: Equality Scheme 2012-16 and Appendix 1
Equality Act 2010

Mary Hall: Extension 6053

S17 Crime and Disorder	Equality and social cohesion activities if undertaken well have a positive impact on communities and reduce the risk of crime and disorder.
Health and Well Being	The Council has identified the Health of the people of the Borough as a key priority. Inequalities in the health of the people of Darlington are evidenced in the Strategic Needs Assessment and need to be addressed. This report outlines the work that needs to take place to look at the equality agenda and how in the future it may reduce inequality too.
Carbon Impact	There are no carbon impact implications in this report
Diversity	<p>This is a broad term and covers a range of issues. There are however specific statutory duties with which we must comply when we make decisions, the most significant of these is the duty under the Equalities Act 2010.</p> <p>149 Public sector equality duty</p> <p>A public authority must, in the exercise of its functions, have due regard to the need to :</p> <ol style="list-style-type: none"> a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>The relevant protected characteristics are</p> <ul style="list-style-type: none"> • age • disability • gender reassignment • pregnancy and maternity • race • religion or belief • sex • sexual orientation <p>The Council has an equality scheme in place which should be followed as a means of</p>

	ensuring that we comply with our statutory duty.
Wards Affected	All wards will be affected by this report.
Groups Affected	This report will affect the whole community of Darlington but in particular the protected characteristic groups as set out above.
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework.
Key Decision	This is not a key decision although the outcome of the option appraisal work may affect all of the residents in Darlington. This is the initial decision to gather evidence and undertake option appraisal activity.
Urgent Decision	This report does not require an urgent decision.
One Darlington: Perfectly Placed	This report will impact positively on delivery of this strategy by looking at ways to improve social cohesion and reduce inequalities.
Efficiency	The work recommended in this report is to ensure that we are complying with our legal duty whilst being as efficient as possible.

MAIN REPORT

Information and Analysis

9. Work is currently ongoing to carry out the legal duties in relation to the Equality Act and the Public Sector Equality Duty. The Council carries out work to comply with the publication and use of Equality Analysis and currently publishes four Equality Objectives where the minimum requirement is one.
10. The Council adopted an Equality Scheme in 2012 and it was agreed that this should be reviewed on an annual basis to ensure it was still fit for purpose and achieving the agreed outcomes which were agreed by Cabinet.
11. Since the Scheme was adopted there have been a number of changes both within the Council but also in the wider environment. This includes the changing role of Members, the initial Public Sector Equality Review, case law relating to impact assessments and a restructure within the Council.
12. The changes set out above have highlighted a number of areas where there is a need for an extensive review to ensure that the Council manages risk effectively and efficiently. There are currently a number of areas where there are significant risks and options need to be reviewed to see how best to mitigate these risks.
13. The key risks and issues are set out in the proposed action plan at Appendix 1 but to deliver this action plan will require more work over the next 3-6 months to prepare a future paper to COB, COE and Cabinet to confirm the future action required. This will need to involve officers throughout the Council and also discussion with other stakeholders and representatives of the protected characteristic groups.
14. The Equality Act stresses that the approach taken to equalities needs to be proportionate but does not give a definition and the EHRC have not yet defined this either so the Council needs to come to a view about what it feels would be proportionate in terms of the Act and appetite for risk.
15. The Public Sector Equality Duty Review has shown that work on equalities should be focussed on making a real difference at front line delivery by not simply collecting Equality Analysis but using it, similarly with Equality Objectives.
16. Locally there are other inequalities that whilst not legally acknowledged in the Equality Act is nevertheless seen as important and these include poverty and health inequalities. These may be caused by deprivation or the difficulties that certain groups of residents such as those with a criminal record face.

17. In addition there are social cohesion issues that also need to be addressed and some of these issues are relating to groups with a protected characteristic including Gypsy and Travellers , disabled people and young people.

Financial Implications

18. The aim of this report is to look at current statutory requirements and other non-statutory activity and ensure that this is carried out in a way that is efficient and effective.

Legal Implications

19. There are a number of statutory obligations in relation to the Equality Act 2010 and the management of risk in relation this and our Public Sector Equality Duty including the promotion of equalities which has recently been clarified by case law.

Equalities Considerations

20. The Council's statutory duties in relation to equalities are the key focus of this report.

Consultation

21. As part of the evidence gathering and option appraisal work it is anticipated that a number of external stakeholders will be contacted and involved in this work. Some of these stakeholders are listed in **Appendix 1** but this list may change as evidence is gathered and options developed.

APPENDIX 1

Topic	Current situation	Recommendations	Proposed key officers (to be confirmed)
Equality Analysis	<p>The Equality Act (2010) requires the Council to publish equality analysis and review this on an annual basis. This is to enable the Council to understand the demographic make-up of the borough and to use this information to ensure equality of access to services. In principle the Council has already agreed to link this to the Strategic Needs Assessment but there are some protected characteristics for which information is still not available. In other cases the evidence is not clear or there are vast differences in information from different sources. This includes residents who have had a gender re-assignment and the Gypsy and Traveller community. Lack of data can hide the need of these residents for services.</p>	<p>It is recommended that prior to publishing the next set of Equality Analysis by 31st January 2014 work is done to understand where there are gaps in information and how we can potentially work with partners including health, police and the voluntary sector to understand this before next year. This activity should link into the SNA process and the Council also needs to work with partners to understand diversity in Darlington.</p>	<p>Deena Wallace Wendy Excel Equalities Darlington Representatives</p>

Topic	Current situation	Recommendations	Proposed key officers (to be confirmed)
Equality Objectives	<p>It is a requirement of the Act that the Council must publish at least one objective and review these every four years. The Council currently publishes 4 objectives and organisations representing the protected characteristics have recently agreed that the four objectives are still current. The objectives are:</p> <ol style="list-style-type: none"> a. Improve access to information about Council services for people with protected characteristics, within the Council's Think Customer transformation programme. b. Improve compliance with the equality requirements of our tender specifications and contracts. c. Improve understanding and awareness of hate crime in Darlington, increase reporting of hate crime, and ensure that agencies provide appropriate support to victims; d. The Council will continue to apply and develop the Single Status Agreement and other equality in employment arrangements by undertaking an equal pay audit by March 2013 and address all identified equal pay concerns by March 2016. 	<p>It is recommended that the objectives are re-visited to ensure that they are:</p> <ul style="list-style-type: none"> • Written in plain English • Covers the priority issues in relation to Equalities • Measurable and proportionate • Provide Value for Money and are achievable with the capacity that there is • Are fit for purpose in the new financial, political, environmental, Social, technological and legal climate that the Council is working in. 	<p>Mary Hall Deena Wallace Eleanor Walker Support from: Sarah Hutchinson Judith Morton Julie Lumb</p>

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Equality Objectives	<p>The first actions for objective one was to look at the use of BSL video clips. This is an ongoing process and will need to link to our overall engagement process. As development of the new website takes place Equalities Darlington are working with us to ensure it is accessible. This could be seen as the priority action moving forward for this objective.</p> <p>Recent research has shown that the language block that we use on leaflets and on the website is big and cumbersome and not suitable for use on some documentation such as polling information. Research has been undertaken to look at what is used elsewhere and a number of options are being explored including the use of flags or a single word such as welcome in a smaller number of key languages in line with the demographics. Further work needs to take place to look at the best methods to use to give us value for money and to ensure that the approach fits with the demographics of Darlington. Google translate for example does not cover at least two of the key communities in Darlington but it is a free service. The importance of equality when commissioning services is important but can become a tick box exercise and it may be more important to concentrate on involving protected characteristic groups in co-design earlier in the process.</p>		

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Equality Objectives	<p>Hate Crime links to the much broader issues of social cohesion and the police have developed a hate crime plan based on joint workshops. Again this objective may need to reflect the work that is taking place in relation to broader Social Cohesion issues. Currently this is focussing on the relationships with the Gypsy and Traveller community but this may need to go wider. Equal Pay and the Single Status Agreement is part of the core work that the Council needs to do and as such it is useful to report on it as one of the Equality objectives.</p>		

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Corporate Equality Group	<p>Key to delivery of the Equality requirements is that officers throughout the council have the knowledge to understand the legal requirements and service benefits relating to equality. This requires them also to have the skills, confidence and support to undertake EIA as part of the service improvement process.</p> <p>The CEG originally had membership from across the council covering all the key strands of work but with restructure a lot of the original officers have left. This means that there is little support available in certain areas but conversely resources given to support membership of the group may be very high in certain areas.</p> <p>A recent review of Cabinet papers over the last 6 months shows that there are inconsistencies in our approach to equalities and EIA. There are some very good EIA but also a number of cases where there are no EIA referred to. In a number of cases this is where there are potentially positive impacts. This means that in a reputational sense we are focussing on the negative and missing opportunities to show how we are working to make things better for residents.</p> <p>There was a discussion last year that training would be undertaken using our own staff as it was felt this would be more relevant and therefore staff would be more likely to take it on board.</p>	<p>There are a number of changes that require the Terms of Reference to be re-visited followed by a review of membership. Some of the issues that need to be included are:</p> <ul style="list-style-type: none"> • Support the development of corporate policy that incorporates equality and social cohesion and reduces inequalities • Defines the scope of equality and the relationship with inequality that is not solely based around the protected characteristics (this is becoming more of an issue now that we have public health role) • Support officers to undertake EIA and to ensure these are robust and revisited pieces of work. They should also 	<p>Mary Hall Deena Wallace Helen Watson Helen Whiting Victoria Dixon</p>

Topic	Current situation	Recommendations	Proposed key officers (to be confirmed)
		<p data-bbox="1308 292 1659 469">pick up cumulative impacts and mitigation. This should be reviewed not simply used at the decision making point.</p> <ul data-bbox="1263 515 1682 1134" style="list-style-type: none"> <li data-bbox="1263 515 1682 874">• Provide training for officers and Members at a generalist level but also picking up specialist issues on a service specific basis e.g. accessibility of information, what cultural issues do care staff need to be aware of. <li data-bbox="1263 922 1644 1134">• Legal input is important within this group to manage risk and give advice including appraising the group of case law decisions. 	

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<p>Equalities Darlington (external group)</p>	<p>This group is made up of representatives of most of the protected characteristic groups in Darlington and provides an opportunity for all of the various groups to meet together.</p> <p>The group has only met a few times but already members of the group value the opportunity to learn about the issues that different communities face. This is an important role in the PSED about fostering good relations between persons who share a relevant protected characteristic and those who do not.</p> <p>The group are also able to support activities such as the development of the Council's new website to ensure that accessibility issues can be addressed early in the process.</p> <p>It is also an important sounding board for us to understand soft intelligence about tensions in communities and also to pick up issues outside our direct control as a council but where they may spark social cohesion issues which we would have to deal with. We can then let other partners know of these risks.</p> <p>The group's knowledge of national policy for their protected characteristic groups is also a valuable resource.</p>	<p>It is recommended that this group continues but that the terms of reference are reviewed to meet any changes as a result of this report and the review of equalities and social cohesion</p>	<p>Neil Bowerbank Mary Hall Deena Wallace External Stakeholders</p>

Topic	Current situation	Recommendations	Proposed key officers (to be confirmed)
Training	<p>Training is key to the embedding of equalities into everyday delivery and also to ensure compliance with the Equality Act and our PSED. This training needs to include Members and Officers within the Council and include basic awareness training but also some specific work for areas of high risk including social care and homecare. Training took place with the heads of service but we now need to ensure this is rolled out more widely.</p> <p>Members have had training in recent times but there will be Members that have taken their seats since the training was given.</p>	<p>A training programme to be identified and also a mechanism for delivery. Scoping to include internal and external options and timescales.</p>	<p>Catherine Whitehead Sharon Raine Neil Bowerbank Mary Hall Deena Wallace Lynne Wood</p>

Topic	Current situation	Recommendations	Proposed key officers (to be confirmed)
Public Sector Equality Duty	<p>The aim of this Duty was to:</p> <ul style="list-style-type: none"> • Simplify previous duties • Extend the duties to all protected characteristic groups • Be outcome-focussed • Reduce Bureaucracy <p>The recommendations above evidence a number of the issues raised in the PSED Review. In brief this is about a cultural change where equality is embedded and not a tick box, uses data and doesn't just collect it, is proportionate in approach, manages risk of legal challenge.</p> <p>There is no clear guidance and whilst there have been few cases of judicial review these can be very expensive in terms of reputation, costs and delays in service Change.</p> <p>There are issues about what information decision makers need and at what point in time information needs to be available that are also unclear. The Brown Principles (R Brown v Secretary of State for Work and Pensions (2008)) state:</p> <ul style="list-style-type: none"> • Decision makers must be made aware of their duty to have 'due regard' to the identified goals • Secondly, the due regard duty must be fulfilled before and at the time that a particular policy is being considered by the public authority • The duty must be exercised in substance, with 	<p>There are a number of key issues that require further investigation to look at how we can better deliver the equalities and social cohesion agenda and how this is achieved with the capacity that we currently have. Any approach needs to cover:</p> <ul style="list-style-type: none"> • Ensuring data used is accurate and relevant • Initiating equality and impact assessment work as soon as possible to reduce risk and manage resources • Ensure we meet our PSED when contracting, sub-contracting or jointly commissioning • Ensure we have a process for following up where changes have happened to see if there were other impacts we need to mitigate, other positive impacts we need to build on, . 	<p>Neil Bowerbank Victoria Dixon Mary Hall Deena Wallace</p>

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	<p>rigour and with an open mind.</p> <ul style="list-style-type: none"> • The duty is a non-delegable duty • The duty is a continuing one • It is good practice for those exercising public functions in public authorities to keep an adequate record showing that they had actually considered their duties and pondered relevant questions <p>This highlights the importance of building equality into the core tasks and concentrating not on a one-off process but a continuing improvement activity.</p>	<ul style="list-style-type: none"> • Ensure mitigation where agreed is put in place, performance managed and improved or stopped if it is not helping address the impacts • That there is a clear audit trail of impact work • Clarification of what an impact is and an awareness of the potential difference in a process to consult with people and get impacts from them • This can be a particular issue with sensitive personal topics. 	

Topic	Current situation	Recommendations	Proposed key officers (to be confirmed)
Inequalities	Inequalities are a key issue especially in the current economic and political environment. It also has an increased focus now that public health is a requirement on the local authority.	This is a separate issue to equality in the legal sense and discussion needs to take place to agree best use of resources.	Sharon Raine Mary Hall Public Health
Social Cohesion	Work is taking place to look at the need to improve relations between the Gypsy and Traveller community, the Council and the wider community	Need to look at this activity within the broader social cohesion requirements	Catherine Whitehead Sharon Raine Neil Bowerbank Mary Hall Working with key officers including Barry Pearson and external stakeholders including the police.